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SHELBY COUNTY COURTHOUSE, SHELBYVILLE, INDIANA

INVENTORY OF THE COUNTY ARCHIVES
OF INDIANA

Prepared by

The Indiana Historical Records Survey
Division of Professional and Service Projects
Work Projects Administration

Sponsored by
Indiana Historical Bureau

No. 73. SHELBY COUNTY
(SHELBYVILLE)

The Indiana Historical Records Survey
Indianapolis
1940

The *Inventory of the County Archives of Indiana* is one of a number of bibliographies of historical materials prepared throughout the United States by workers on the Historical Records Survey Program of the Work Projects Administration. The publication herewith presented, an inventory of the archives of Shelby County, is number 73 of the Indiana series.

The Historical Records Survey Program was undertaken in the winter of 1935-36 for the purpose of providing useful employment to needy unemployed historians, lawyers, teachers, and research clerical workers. In carrying out this objective, the project was organized to compile inventories of historical materials, particularly the unpublished government documents and records which are basic in the administration of local government, and which provide invaluable data for students of political, economic, and social history. The archival guide herewith presented is intended to meet the requirements of day-to-day administration by the officials of the county, and also the needs of lawyers, business men, and other citizens who require facts from the public records for the proper conduct of their affairs. The volume is so designed that it can be used by the historian in his research in unprinted sources in the same way he uses the library card catalog for printed sources.

The inventories produced by the Historical Records Survey Program attempt to do more than give merely a list of records—they attempt further to sketch in the historical background of the county or other unit of government, and to describe precisely and in detail the organization and functions of the government agencies whose records they list. The county, town, and other local inventories for the entire country, will, when completed, constitute an encyclopedia of local government as well as a bibliography of local archives.

The successful conclusion of the work of the Historical Records Survey Program, even in a single county, would not be possible without the support of public officials, historical and legal specialists, and many other groups in the community. Their co-operation is gratefully acknowledged.

The Survey Program was organized and has been directed by Dr. Luther H. Evans, who served as director until his appointment as Director of the legislative Reference Service of the Library of Congress. He was succeeded on March 1, 1940 by Sargent B. Child, who had served in the capacity of Field Supervisor since the inauguration of the Survey. The Survey Program operates as a nation-wide series of locally sponsored projects in the Division of Professional and Service Projects, of which Mrs. Florence Kerr, Assistant Commissioner, is in charge.

F. C. HARRINGTON
Commissioner

PREFACE

The Historical Records Survey, one of the Division of Professional and Service Projects of the Work Projects Administration, was organized in January 1936 with Dr. Luther H. Evans as National Director. The survey of local public records was begun in Indiana on February 19, 1936 as part of the Federal Writers' Project. Samuel J. Kagan was assigned to direct public records work, and was named State Director of the Survey in September 1936 when it became independent of the Writers' Project. On September 1, 1939 the Indiana Historical Records Survey became a state project under the sponsorship of the Indiana Historical Bureau. Roger A. Hurst was appointed State Supervisor of the Survey in January 1940 and Canis E. Brockway continued as Assistant State Supervisor. Dr. Evans was succeeded as National Director by Sargent B. Child in March 1940.

The objectives of the Indiana Historical Records Survey are to discover, preserve, and make accessible historical materials of a public or semi-public nature. Inventories of the records of counties, cities, towns, and churches, and guides to manuscript depositories and collections are or will be published. The survey also transcribes certain early county records as a measure of preservation.

The Inventory of the County Archives of Indiana will consist of a separate volume for each county. A list of inventories published to date appears at the end of this volume. Numbers are assigned according to the county's position in an alphabetical list and thus the Shelby County volume is number 73. The field work of the Survey in Shelby County was begun May 8, 1936 and completed July 8, 1936. Many field trips have been made since to check information used in this book and the final recheck was made in March 1940.

The inventory proper is preceded by essays on the history, government, and record housing of the county. The records themselves are described in entries giving the following information: Title of record, dates available, quantity, labeling, variant titles, description of contents, arrangement, indexing,

nature of recording, size, and location. The various bureaus of the county are arranged in functional order: Governing boards; major administrative offices; judicial offices; and financial, election, educational, health, public welfare, engineering, and other groups. Wherever applicable, natural groupings under separate headings are made within each bureau.

Field work for this volume was submitted to a state editorial staff by Frank E. Ross. Staff department heads were: Marshall Cowgill, record entries; W. Davis Hamilton, legal research; Howard Oates, proofreading and indexing; Dr. J. Harley Nichols, historical sketch; Richard I. Nation, housing essay; and Fred S. Knodle, cartography. This volume was multigraphed by WPA labor directed by William Deupree.

The Survey is deeply indebted to many Shelby County officials; to Dr. Christopher B. Coleman, Director, Indiana Historical Bureau, who gave valuable advice and service; to John K. Jennings, State WPA Administrator; to Mildred E. Schmitt, State Director, Professional and Service Projects Division, who has rendered the Survey important service in administrative matters; to John D. Stuckey, Chief, Research and Records Section; and to many others who contributed time and effort. The Indiana staff received valuable advice and criticism from the National Office of the Survey. This inventory in manuscript form was edited by Mable S. Brodie, assistant archivist in charge of public records inventories, of the Library of Congress Project staff in the District of Columbia.

Five hundred copies of this book have been published and many have been distributed to libraries, universities, government offices, and other depositories over the state and the nation. Copies will also be available in Shelby County for persons, offices, or institutions having occasion to use county records or to study local government.

ROGER A. HURST

State Supervisor

The Indiana Historical Records Survey

Indianapolis, Indiana

July 1940

THE HISTORICAL RECORDS SURVEY PROGRAM

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Roger A. Hurst, State Supervisor

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1940

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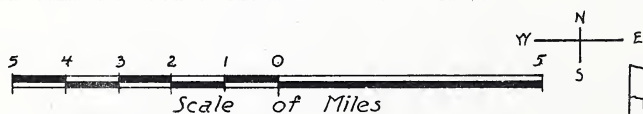
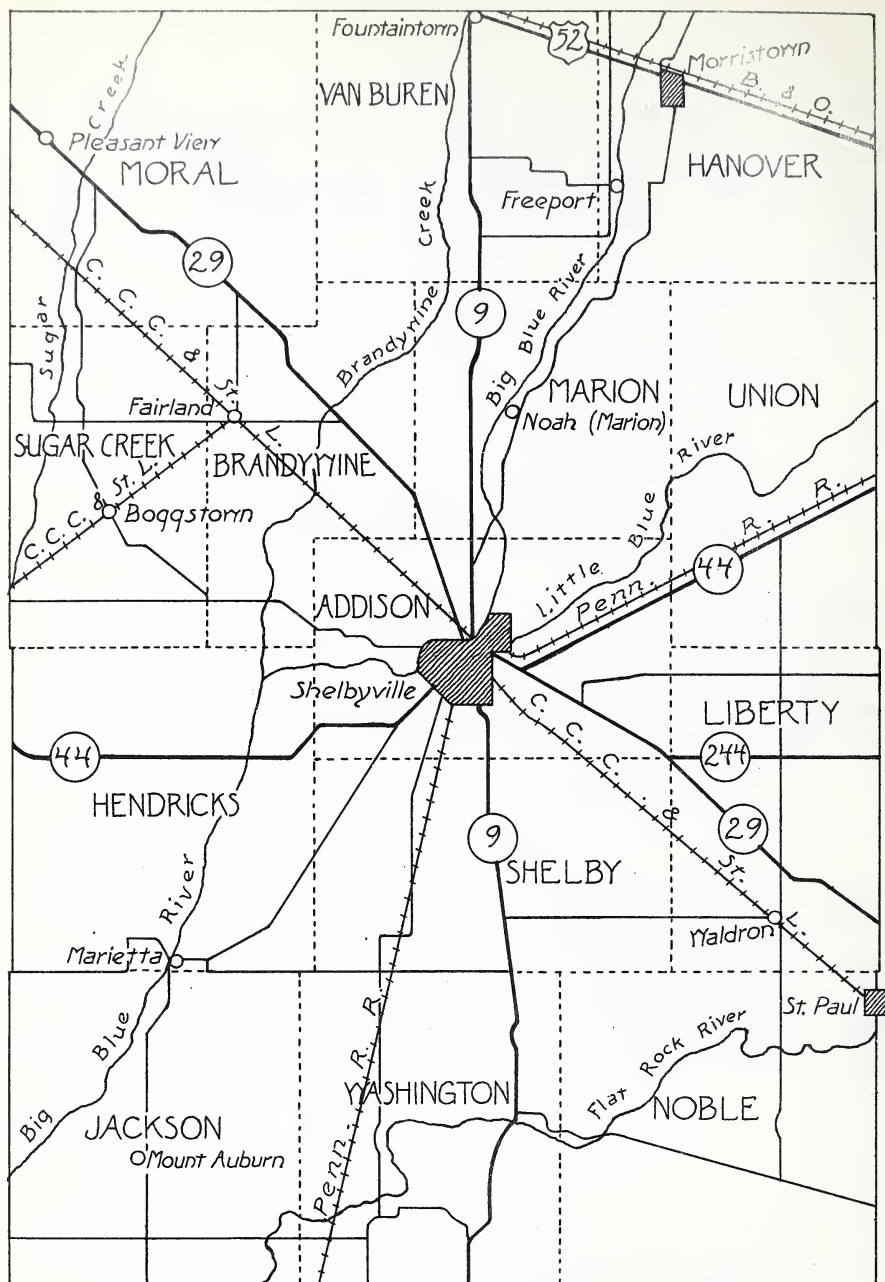
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MAP OF SHELBY COUNTY



PART A. SHELBY COUNTY AND ITS RECORDS SYSTEM

1. HISTORICAL SKETCH

Shelby County is located in the southeast central part of the state. By counties it is bounded on the north by Hancock, on the east by Rush and Decatur, on the south by Decatur and Bartholomew, and on the west by Johnson and Marion. It is rectangular in shape, with a north and south dimension of 24 miles and an east and west dimension of 17 miles; its area is 407 square miles, or 260,480 acres. It was named in honor of Isaac Shelby, soldier of the American Revolution, Kentucky's first governor, and a leader of Kentucky volunteer troops in the War of 1812.¹

NATURAL SETTING

The surface of Shelby County is for the greater part level or gently undulating. This is due to the glacier that at one time covered the county. With resistless power it cut down hills and filled up valleys and when it receded left a glacial deposit which in some places exceeds 100 feet in depth. In other places, notably in the vicinity of Flat Rock River, in the southeastern part of the county, the underlying rock is near the surface and the surface is, therefore, more irregular.² The uplands attain an elevation of 900 feet above sea level. The valleys are from 100 to 175 feet lower.³

The principal streams of the county are Big Blue River and Flat Rock River. The former traverses almost the entire length of the county, entering at the north end three and one-half miles from the east side and leaving on the west side a

¹ Henry Gannett, "The Origin of Certain Place Names in the United States", *U. S. Department of the Interior Bulletin No. 258* (Washington, D. C., 1905), 281. *Year Book of the State of Indiana for the Year 1936* (Fort Wayne, Indiana, 1937), 886. *History of Shelby County, Indiana* (Chicago, Illinois, 1887), 273.

² Indiana, *Annual Report of the Department of Geology and Natural Resources, 1911* (Indianapolis, 1912), 58 (series hereafter cited as *Indiana Geological Report*).

³ *Indiana Geological Report, 1881*, p 56.

little more than two miles from the southern boundary. Within the county it receives as tributaries Little Blue River, which enters from the east at Shelbyville, and Brandywine Creek, which joins it from the north somewhat farther west. Sugar Creek, with its tributaries Little Sugar Creek and Buck Creek, drains the northwestern part of the county and joins Big Blue River a few miles beyond the county line in the southeastern part of Johnson County. Flat Rock River crosses the southeastern corner of the county and discharges into the East Fork of White River, near Columbus, in Bartholomew County. Lewis Creek drains the southeast central part of the county and joins Flat Rock River just before the latter crosses the southern boundary of the county.

The average annual temperature of the county is about 53° Fahrenheit, varying from about 30° in February to about 74° for July. The average annual rainfall is about 43 inches. The average growing season over the period from 1905 to 1911 inclusive was 178 days.⁴

EARLY INDIANA

Before the coming of the white men to Indiana, a copper colored people whom the white people erroneously called Indians, roamed its forests and paddled their canoes on its streams. They subsisted mostly by hunting and fishing but in addition practiced a rudimentary agriculture.

The tribe most intimately identified with Indiana were the Miami, whose territorial claims, as laid down by their great chief, Little Turtle, during the process of treaty making at Greenville, Ohio, in 1795, embraced the entire state.⁵ From inability or unwillingness to enforce their claims, other tribes were permitted to live within or frequent the state. Among these were the Delaware, who about 1770 were granted permission to occupy the region between the Ohio and White rivers.⁶

The first white people to come to Indiana were the French. In the latter part of the 17th century they made voyages of discovery and exploration from Canada into the Ohio country, as the territory northwest of the Ohio River came

⁴ *Ibid.*, 1911, pp. 62, 63.

⁵ *American State papers, Indian Affairs* (Washington, D. C., 1832), 1:570, 571.

⁶ F. W. Hodge, editor, *Handbook of American Indians North of Mexico* (Washington, D. C., 1912), 385.

to be called. These were followed by trading and missionary activity among the natives of the region. In the first half of the 18th century three French trading posts were established in what is now Indiana: Post Miami, on the present site of Fort Wayne, about 1715; Ouiatenon, on the Wabash, near the present site of Lafayette, about 1719 or 1720; and Vincennes, on the lower Wabash, sometime before March 1733.⁷

Early in the 18th century the English began to enter the Ohio Valley from the east. The conflicting claims of the two nations led to the French and Indian War, as a result of which France lost her colonial empire in America. During the American Revolution George Rogers Clark conquered the western country and in 1778 Virginia organized it as the "Country of Illinois."⁸ At the close of the Revolution the various states laying claim to the area in whole or in part—Massachusetts, Connecticut, New York, and Virginia—ceded their claims to the United States, and in 1787 Congress created therefrom the Northwest Territory.⁹ From this area, five states and a part of a sixth were subsequently created. Indiana Territory, embracing all the area between the present State of Ohio and the Mississippi, except a small part of the present State of Michigan and that portion of southeastern Indiana known as the "gore", was organized in 1800.¹⁰ In 1816 Indiana, with approximately its present boundaries, was organized and admitted into the Union as a state.¹¹

The Indian titles to lands in Indiana were extinguished as a result of 54 separate cessions extending from the treaty of Greenville in 1795 to 1872, when the last Indian reserve was abolished.¹² The cession of lands to the United States

⁷ Oscar J. Craig, "Ouiatenon", *Indiana Historical Society Publications* (Indianapolis, Indiana, 1892), vol. 2, no. 2. P. G. Roy, "Sieur de Vincennes Identified", *Indiana Historical Society Publications*, vol. 7, no. 1. M. M. Quaife, "Fort Wayne in 1790", *Indiana Historical Society Publications*, vol. 7, no. 7. P. C. Phillips, "Vincennes in Its Relation to French Colonial Policy", *Indiana Magazine of History*, December 1921 (Bloomington, Indiana, 1921).

⁸ W. W. Hening, *The Statutes at Large . . . of Virginia* (Richmond, Va., 1821), 9:552.

⁹ Clarence E. Carter, editor, *The Territorial Papers of the United States* (Washington, D. C., 1934), 1:39-50.

¹⁰ *Annals of Congress*, 6th Congress, 1st Session (Washington, D. C., 1834-56), 1498.

¹¹ For the enabling act, see *Annals of Congress*, 14th Congress, 1st Session, 1841; for the resolution admitting Indiana to the Union, see *ibid.*, 14th Congress, 2d Session, 1848.

¹² For a complete list of the cessions, together with a map showing their locations, see William Henry Smith, *History of the State of Indiana* (Indianapolis, Indiana, 1903), 1:181-186. For the text of the treaties, see "Treaties between the U. S. and the Indian Tribes", *The Statutes*

created a great deal of dissatisfaction among the Indians, especially the Shawnee, who, under the leadership of Tecumseh and his brother, the Prophet, maintained that no tribe had a right to alienate Indian land without the consent of all. As a result of the battle of Tippecanoe in November 1811, the attempt of Tecumseh to organize an Indian confederacy to resist further encroachment by the whites on Indian lands collapsed. In 1818 the "New Purchase", a large tract of land in central Indiana from which Shelby and 36 other counties were formed, was obtained by treaties with the Delaware and Miami Indians.¹³

WHITE SETTLEMENT

If it be true that a French fort was located at the confluence of the Muscatatuck and White rivers and a French town at Vallonia in Jackson County, as it is claimed, it is probable that French voyageurs were the first white men to enter the limits of what is now Shelby County.¹⁴ The first white man known to have entered the present limits of the county was William Conner, an Indian trader, who in 1808 established a trading post on the present site of Connersville. As early as 1816 Conner floated down Flat Rock River in a small boat filled with goods to trade to the Indians for furs. Later he made a similar voyage on Blue River.¹⁵

The first actual settler in the county was James Wilson, who with his three sons, William, Jonathan, and Wesley, and two men named Hanna and Logan, came to the county in 1818 and began a log cabin on section 16 in Marion Township. Leaving his sons to complete the structure, Wilson returned to his home in the present Franklin County, but came again early in 1819, bringing with him the remainder of his family.¹⁶

at Large of the United States of America (Boston, Mass. and Washington, D. C., 1845—), 7:49 et seq. (series hereafter cited as *U. S. Statutes at Large*); and Charles J. Kappler, *Indian Affairs. Laws and Treaties* (Washington, D. C., 1904; published as *U. S. Senate Document No. 452*, 57th Congress 1st Session), 2:30 et seq.

¹³ *American State Papers, Indian Affairs*, 2:169, 170. James A. Woodburn "The New Purchase", *Indiana Historical Society Publications*, 6:43, 44.

¹⁴ John C. Lazenby, "Jackson County Prior to 1850", *Indiana Magazine of History*, September 1914.

¹⁵ Edward H. Chadwick, *History of Shelby County, Indiana* (Indianapolis, Indiana, 1909), 51. F. I. Barrows, *History of Fayette County, Indiana* (Indianapolis, Indiana, 1917), 147.

¹⁶ Chadwick, *op. cit.*, 52.

The second settler of the county was Bennett Michael who had been a neighbor of Wilson in Franklin County and who was induced by Wilson to make his home in the new settlement.¹⁷

In the spring of 1820 Benjamin Kaster, John Foreman, John Smith, and Henry Fishel, with their families, located near the earlier settlers.¹⁸ In the same year John C. Davis and Caleb Sleeth came to the county. Among those who came in 1821 were Jonah and Sylvester Bassett, George W. Davis, James Davison, Peter D. and William H. Gatewood, Nathan and Thomas Goodrich, William Hankins, William Kaster, William Law, E. G. Mayhew, Obediah and Samuel Nail, Levi Parish, Milton Robbins, Andrew Sleeth, and Albert, Daniel, David, and Peter Snyder.¹⁹

Many of the early settlers were squatters. That is, they settled on the land without first taking the legal steps toward acquiring its title. In 1819 and 1820 the county was surveyed under the directions of W. B. Laughlin, A. Wallace, B. Bently, Abraham Lee, and John Hendricks.²⁰ In October 1820 a land office provided for by an act of Congress of March 3, 1819 was opened at Brookville.²¹ During the next three or four months more than 100 entries for land in Shelby County were made at the Brookville office.²² An act of Congress of April 24, 1820, lowered the minimum price of public land from \$2 to \$1.25 per acre and abolished the credit system of payment provided for by an act of 1796.²³

CREATION AND ORGANIZATION

Shelby County was created by an act of the Indiana General Assembly of December 31, 1821, effective April 1, 1822. The following boundaries were constituted by the act creating the county and are the present boundaries: "Beginning at the south east corner of section thirty-three in township eleven north of range eight east of the second principal meridian; thence north twenty-four miles, to the north-east corner of section four in township fourteen north of range eight east;

¹⁷ *Ibid.*, 53.

¹⁸ *Ibid.*

¹⁹ *Ibid.*, 59.

²⁰ *Ibid.*, 53.

²¹ *U. S. Statutes at Large*, 3:521, 522. Chadwick, *op. cit.*, 54.

²² Chadwick, *op. cit.*, 54, 55.

²³ *U. S. Statutes at Large*, 3:566, 567.

thence west seventeen miles to the north west corner of section two in township fourteen north of range five east; thence south twenty-four miles to the north boundary of Bartholomew county; thence east seventeen miles to the place of beginning."²⁴

The first term of the board of commissioners of the new county was held at the home of David Fisher, near the town of Marion (Noah), on Tuesday, April 9, 1822. Richard Tyner, Joseph Davison, and David Fisher presented certificates of election and after receiving the oath of office, elected Richard Tyner president. Hiram Aldridge was appointed clerk of the board until as clerk-elect he could qualify for the office. William Davis was appointed county treasurer.²⁵

At a special meeting of the board, held on May 13, 1822, Benjamin Hodges was appointed lister, as the officer who made out the tax roll was called. At the same session a superintendent was appointed for each school section of the county and petitions signed by "divers and sundry citizens" praying for the establishment of county roads were received.²⁶

On the first Monday of July 1822 George Bently, Benjamin Blythe, Amos Boardman, Joshua Cobb, and Ebenezer Ward, commissioners appointed by the Indiana legislature to locate the seat of justice of Shelby County, met at the home of David Fisher.²⁷ After four days spent in examining and comparing the relative merits of the several proposed sites, the commission announced its choice of a location on 70 acres donated by John Hendricks, James Davison, and John Walker, the present site of Shelbyville.²⁸ The report of the locating commissioners was accepted by the board of commissioners at a meeting held on July 5.²⁹ At the same session the board directed the county agent, an official who acted as a business representative of the board, to lay off the west half of the 50 acres donated by Hendricks and Walker into streets and alleys and town lots, and ordered that the lots be sold at a public sale advertised to begin on September 23.³⁰

²⁴ *Laws of the State of Indiana, 1821-22, ch. 31, sec. 1* (series hereafter cited as Acts). George Pence and Nellie C. Armstrong, *Indiana Boundaries: Territory, State and County* (Indianapolis, Indiana, *Indiana Historical Collections*, vol. 19, 1933), 740, 741.

²⁵ Commissioners' Record, A:1, see entry 2.

²⁶ *Ibid.*, A:2, 3.

²⁷ Acts 1821-22, ch. 31, sec. 2. *History of Shelby County, Indiana* (Chicago, Illinois, 1887), 274. Chadwick, *op. cit.*, 61.

²⁸ *History of Shelby County, Indiana* (1887), 280. Chadwick, *op. cit.*, 61, 62.

²⁹ Commissioners' Record, A:5-7.

³⁰ *Ibid.*, 14.

The first court held in the county convened at the home of David Fisher on October 10, 1822. It was presided over by Associate Judges John Sleeth and William Goodrich. When the weather permitted, the sessions were held either in an unfinished barn or on a fallen oak tree, the branches of the tree serving both as bench and jury box. After the location of the county seat, court was held at the residence of Benjamin Williams and later at the home of Hiram Aldridge. The first business transacted by the court was to admit five applicants to the practice of law.³¹

The history of townships in the county dates from the first meeting of the board of commissioners, April 9, 1822, when four townships—Marion, Union, Hendricks, and Noble—were created.³² During the next 18 years there were frequent changes in the townships both as to name and arrangement. With the reorganization of the then existing townships in January 1840, the organization of Brandywine Township in March 1843, and Washington Township in April 1845, the present arrangement was effected, with the exception of Shelby Township, which was created out of the southern part of Addison Township in June 1882.³³ There are today 14 townships in the county: Addison, Brandywine, Hanover, Hendricks, Jackson, Liberty, Marion, Moral, Noble, Shelby, Sugar Creek, Union, Van Buren, and Washington.³⁴

EARLY COUNTY FINANCE

The early government of Shelby County was simple and the burden of its support correspondingly light. The principal source of county revenue for the first few years was the proceeds of the sale of lots in Shelbyville. In November 1825 the sum derived from this source amounted to \$1,612.12½.³⁵ During the next two years it increased to \$2,486.68¾.³⁶

In August 1822 it was ordered by the board that "the taxes for the County of Shelby be laid as high as the law will allow." In addition to the property tax levied at this

³¹ *History of Shelby County, Indiana* (1887), 280. *History of Shelby County, Indiana from 1822 to 1876* (Shelbyville, Indiana, 1876), 12.

³² Commissioners' Record, A:1.

³³ *History of Shelby County, Indiana* (1887), 276-279. Chadwick, *op. cit.*, 64-67.

³⁴ *Year Book of the State of Indiana for the Year 1936* (1937), 886.

³⁵ Commissioners' Record, A:122.

³⁶ *Ibid.*, 194.

time, a poll tax of 50 cents was imposed on each male person over 21 years of age.³⁷ In January 1826 taxes were levied by the board as follows: "every hundred acres of first rate land, \$0.25; every hundred acres of second rate land, \$0.20; every hundred acres of third rate land, \$0.15; each horse, mule or ass over three years old, \$0.37½; each covering horse, one and one-half times the rate at which he stands the season; each work oxen, \$0.18¾; each four-wheeled pleasure carriage, \$1.50; each two-wheeled pleasure carriage, \$1.00; each gold watch, \$1.50; each silver watch, \$0.50; each brass clock, \$1.25."³⁸

To operate certain businesses, licenses were required. This not only afforded a revenue for the county but made it possible to subject the business to a certain amount of regulation. In November 1823 Benjamin Williams, upon paying into the county treasury \$10, was granted a license to operate a tavern.³⁹ Arthur Major, in February 1824, paid \$10 for a license to vend merchandise with a capital stock not to exceed \$1,200.⁴⁰ In May 1824 it seemed to the board that it would conduce to the public convenience to grant Cyrus Stone a license to retail spiritous liquors at his home in Hanover Township, for which privilege Stone was required to pay \$5 into the county treasury.⁴¹ In 1822 tavern rates were fixed by the board as follows: "one-half pint of whiskey, 10 cents; meals, 25 cents; bed, 6¼ cents; horse at hay, 12½ cents; each gallon of grain, 12½ cents; one-half pint of brandy, 25 cents."⁴²

Merry McGuire was authorized, in May 1828, to establish a public ferry on Blue River in Jackson Township, provided he built a "good and sufficient" boat, 40 feet long and eight feet wide, and filed bond for the proper performance of his duties.⁴³ At the same meeting John Webb was authorized to operate a ferry on Sugar Creek.⁴⁴ The following ferry rates were prescribed: "four horses and wagon, 50 cents; three horses and wagon, 37½ cents; two horses and wagon, 25 cents;

³⁷ *Ibid.*, 13.

³⁸ *Ibid.*, 129.

³⁹ *Ibid.*, 52.

⁴⁰ *Ibid.*, 63.

⁴¹ *Ibid.*, 65.

⁴² *Ibid.*, 20.

⁴³ *Ibid.*, 219.

⁴⁴ *Ibid.*

single horse and rider, 12½ cents; man on foot, 6¼ cents."⁴⁵ In August 1828 it was ordered by the board that a tax of \$2 be levied on each public ferry within the county.⁴⁶

TRANSPORTATION

Prior to the coming of the white men there were no roads in Shelby County other than trails and traces required for and made by the movement of Indians and animals. In the absence of roads the streams were utilized for transportation and travel. An act of the Indiana legislature of January 20, 1824 declared Blue River a public highway from Bailey's Mill to the line dividing townships nine and 10 north of range five east, and commissioners were appointed to ascertain the amount of labor required to make the stream navigable. Persons who had erected dams across the stream were required to give the dam "a good and sufficient slope" so that boats of common size might pass without injury.⁴⁷ An act of February 11, 1825 made a similar provision for Sugar Creek from Hough's Mill to its mouth.⁴⁸

At least 10 flatboats loaded with local produce were sent from Shelby County to New Orleans. In the latter part of the 1820's Nathan and Thomas Goodrich took the first of such cargoes to the southern metropolis. A man by the name of Isley took the second cargo the following year. William Farris and a man by the name of Vanasdol sent two boats from near Freeport and John C. Walker sent two from Shelbyville. Another was sent from Wolf's Mill, and still another from Shelbyville.⁴⁹

The first road in Shelby County fashioned by white men was a blazed trail, as roads marked by chipping the bark of trees was called, made by Jacob Whetzel soon after the Indian treaty of 1818. The trail, long known as Whetzel's Trace, began somewhere near Laurel, in Franklin County, and led to the bluffs at the present site of the village of Waverly, in Morgan county. It passed through Shelby County in a northwesterly direction, crossing Big Blue River about four and one-half miles north of Shelbyville.⁵⁰

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*, 238.

⁴⁷ Acts 1823-24 (special), ch. 24.

⁴⁸ Acts 1824-25, ch. 48, sec. 47.

⁴⁹ *History of Shelby County, Indiana* (1887), 313.

⁵⁰ George S. Cottman, "Internal Improvements in Indiana", *Indiana Magazine of History*, March 1907. Chadwick, *op. cit.*, 53.

The act of Congress enabling the people of Indiana to form a constitution and state government, set aside five percent of the proceeds of the sale of public lands for the building of public roads. Three percent was given to the state to be applied to the building of roads, bridges, and canals within the state, and two-fifths were reserved by the United States to be applied on roads and canals leading to the state.⁵¹ An act of the Indiana legislature of January 1, 1817 made "every male person, eighteen years of age and under fifty, having resided thirty days within any township in the state", liable to work on roads and public highways not exceeding six days in any one year.⁵² Numerous items in the Commissioners' Record indicate the helpfulness of these laws in building the roads and bridges of the county.

The first road in Shelby County intended for the use of vehicles was a state road leading from Lawrenceburg to Indianapolis, passing through Shelby County from southeast to northwest. It was provided for by an act of the Indiana legislature of January 1820, and for many years it was an important thoroughfare, affording connection with the Ohio River. Locally it was known as the Old State Road.⁵³

The Michigan Road, a state highway extending from Madison on the Ohio River to Michigan City by way of Indianapolis, was opened through Shelby County in the 1830's, passing through Shelbyville.⁵⁴ For a time it seemed destined to fulfill its promise of being one of the nation's great highways. The coming of the railroad robbed it of its importance, however, and expectations for it were never realized.

The history of county roads in Shelby County dates from May 1822, when Abel Cole and others petitioned the board of commissioners for a road "beginning at a point where the state road crosses the east line of section 23, township 14, range 7, thence on the nearest and best route to Richard Tyner's in section 1 in said township, thence northeast towardly the north boundary of Shelby County."⁵⁵

At first, county roads were mere bridle paths, or, at most, wagon ways from which the timber had been removed.

⁵¹ *Annals of Congress*, 14th Congress, 1st Session, 1841.

⁵² Acts 1816-17, ch. 8, sec. 10.

⁵³ Acts 1819-20, ch. 55, sec. 5. Chadwick, *op. cit.*, 78.

⁵⁴ Chadwick, *op. cit.*, 78.

⁵⁵ Commissioners' Record, A:3.

To render them passable in wet weather poles were sometimes placed crosswise the road and the intervening spaces filled with dirt. Roads so constructed were known as corduroy roads. They had a hard surface but were rough. The first gravel road in the county was constructed about 1860. In 1876 the county had 154 miles of gravel roads.⁵⁶ By 1904 this had increased to 285.⁵⁷

Many of the early roads of the county were constructed by private corporations who charged for the use of them. About 1883 roads so owned and operated were purchased by the county and thrown open for public use.⁵⁸ Thenceforth all public roads were built by the state and county. In the 1920's and 1930's came an era of intensive road building in Shelby and other Indiana counties, in which many gravel roads were replaced by concrete highways. These roads were built by the state with federal and state funds. Bus and truck lines came into being to use the new highways.

The history of railroads in Shelby County dates from 1834 when a road equipped with wooden rails was constructed from Shelbyville to Lewis Creek, a distance of a mile and a half. On July 4 of that year demonstration trips over the line were made with horse-drawn cars, for which passengers were charged 25 cents. This railroad is said to have been the first railroad constructed west of the Allegheny Mountains.⁵⁹

The first steam railroad in the county was begun in 1846 and completed in 1850. It was known as the Shelbyville Lateral Branch and extended from Shelbyville to Edinburg, connecting at the latter place with the Madison and Indianapolis Railroad.⁶⁰ In 1847 the Knightstown and Shelbyville Railroad was begun. After operating a few years it was abandoned.⁶¹ A third road, the Rushville and Shelbyville, also begun in 1847, was a part of the Cambridge City branch of the Jeffersonville, Madison and Indianapolis road, and is now a part of the Pennsylvania system.⁶²

⁵⁶ *History of Shelby County, Indiana* (1876), 31.

⁵⁷ "Public Roads of Indiana: Mileage and Expenditure in 1904", U. S. Department of Agriculture, Office of Public Roads, Circular No. 66 (Washington, D. C., 1905), 4.

⁵⁸ Chadwick, *op. cit.*, 79.

⁵⁹ *History of Shelby County, Indiana* (1887), 286.

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² *Ibid.* Andrew W. Young, *History of Wayne County, Indiana* (Cincinnati, Ohio, 1872), 111. *Biographical Record of Bartholomew and Brown Counties, Indiana* (Indianapolis, Indiana, 1904), 135.

The Indianapolis, Cincinnati and Lafayette Railroad, later a part of the Cincinnati, Indianapolis, St. Louis and Chicago Railroad and now a part of the Big Four, was begun in 1849 and completed in 1853. Subsequently a branch was constructed from Fairland, in Shelby County, to Martinsville by way of Franklin.⁶³

The fourth railroad in the county, the Cincinnati, Hamilton and Indianapolis, now a part of the Baltimore and Ohio, was begun in 1867 and completed in 1869.⁶⁴

The Indianapolis, Shelbyville and Southeastern Traction Company was incorporated in 1901 and completed between Indianapolis and Shelbyville during the following year.⁶⁵ In 1907 the road was completed to Greensburg.⁶⁵ In 1906 a line was completed from Indianapolis to Connersville by way of Morristown in Shelby County.⁶⁶ Service on this line was discontinued in 1931.⁶⁷

EDUCATION

The first schools of Shelby County were subscription schools, the patrons paying according to the number of children they had enrolled. School buildings were rude log structures heated by hugh fireplaces and lighted through openings covered by greased paper. Seats and desks were split logs into which holes were bored on the round sides and wooden pegs inserted for legs. The curriculum consisted of reading, writing, and arithmetic—the so-called three R's. Rules were specific and the punishment for their infraction usually severe, the adage "no lickin', no larnin'" being interpreted literally and freely applied.⁶⁸

A subscription school, taught by Jonathan M. Wilson in a log building located on the public square of Marion as early as 1821, is thought to have been the first school in the county. Another early school was taught by Joshua Kelley

⁶³ *History of Shelby County, Indiana* (1887), 287.

⁶⁴ *Ibid.* George J. Richman, *History of Hancock County, Indiana* (Indianapolis, Indiana, 1916), 147.

⁶⁵ Glen A. Blackburn, "Interurban Railroads of Indiana", *Indiana Magazine of History*, December 1924.

⁶⁶ *Ibid.*

⁶⁷ Interview of Harry Osborne with Frank Norweil, former traffic manager of the Union Traction Company of Indiana.

⁶⁸ Claude J. Haymond, in *Shelbyville Democrat*, May 10, 1922.

and later by Frank Lane, in a building about three miles north of the present site of St. Paul, opposite Vienna Cemetery.⁶⁹

The Indiana Constitution of 1816 provided that "the money which shall be paid, as an equivalent, by persons exempt from militia duty, except in time of war, shall be exclusively, in equal proportions, applied to the support of county seminaries; also fines assessed for any breach of the penal laws shall be applied to said seminaries in the counties wherein they shall be assessed."⁷⁰ The seminary established in Shelby County under this constitutional provision was organized on January 29, 1831.⁷¹ Sometime in the forties a seminary building was constructed in Shelbyville in which the so-called common and higher branches were taught. In 1850 it employed three teachers and had 60 pupils enrolled.⁷² The building burned in 1852,⁷³ about the time the Indiana legislature ordered the sale of all county seminary property in Indiana, the proceeds thereof to be included in the common school fund.⁷⁴

Toward the middle of the 19th century an irresistible demand for free schools developed within the state. This demand was reflected in the Constitution of 1851 which made it mandatory that the legislature "provide by law, for a general and uniform system of Common Schools, wherein tuition shall be without charge and equally open to all."⁷⁵ This provision created educational opportunity but it did not compel its acceptance. Not until 1897 did the state legislature enact a compulsory attendance law.⁷⁶ Under these enactments the schools of Shelby County, as elsewhere in Indiana, have

⁶⁹ *Ibid.*

⁷⁰ "Constitution of the State of Indiana, 1816" (hereafter cited as Const. 1816), art. 9, sec. 1, in *The Revised Statutes of the State of Indiana, 1843* (Indianapolis, Indiana, 1843), 38-64 (volume hereafter cited as Rev. Stat. 1843).

⁷¹ Walter J. Wakefield, "County Seminaries in Indiana", *Indiana Magazine of History*, June 1915.

⁷² *The Seventh Census of the United States: 1850* (Washington, D. C., 1853), 786.

⁷³ Chadwick, *op. cit.*, 232.

⁷⁴ *The Revised Statutes of the State of Indiana, 1852* (Indianapolis, Indiana, 1852), vol. 1, ch. 97 (series hereafter cited as Rev. Stat. 1852).

⁷⁵ "Constitution of the State of Indiana, 1851" (hereafter cited as Const. 1851), art. 8, sec. 1, in Harrison Burns, editor, *Annotated Indiana Statutes, Containing All Acts of a General and Public Nature in Force September 1, 1933* (Indianapolis, Indiana, 1933-), vol. 1, pp. 1-122 (series hereafter cited as Burns).

⁷⁶ Acts 1897, ch. 165, sec. 1.

steadily improved. In 1850 there were 110 schools in the county, with an enrollment of 538.⁷⁷ In 1908 there were 114 schools, enrolling 3,554 pupils.⁷⁸

SOCIAL WELFARE

An early act of the Indiana legislature provided that the public charges of the various counties be maintained in private homes at public expense. Two overseers of the poor were provided for each township whose duty it was to farm out to the lowest bidder those dependent upon public charity.⁷⁹ Many examples of the administration of the law are found in the Commissioners' Record, of which the following are typical: "Ordered by the board that James P. Phillips be allowed six dollars for his services rendered to a pauper of Shelby County."⁸⁰ "Ordered by the board that Josiah Williams be allowed the sum of \$4.75 for services rendered to Edward Dixon."⁸¹ Sometimes money was paid directly to the recipient of relief, as in the case of Ezra McCade, to whom the board ordered that \$10 be paid out of the county treasury.⁸²

On July 3, 1847 the county purchased for \$1,800 a farm containing 160 acres, to be used as a county farm or asylum, as it was then called. On this farm, which was located five miles south of Shelbyville, a brick house was constructed at a cost of \$550. In a short time this building was inadequate and in 1861 a larger brick building was constructed.⁸³

With the growth of population and the growing complexity of modern life the number of public charges in the county has steadily mounted and the cost of their maintenance correspondingly increased. Poor relief for the nine-year period from 1828 to 1836 inclusive totaled \$1,260, an average annual cost of \$140. For the year 1867 it amounted to \$1,213 and by 1886 the annual cost increased to \$14,049.⁸⁴ In recent years relief in Shelby County, as elsewhere, has become a

⁷⁷ *The Seventh Census of the United States: 1850*, p. 784.

⁷⁸ Chadwick, *op. cit.*, 17.

⁷⁹ Acts 1817-18 (general), ch. 14.

⁸⁰ Commissioners' Record, A:48, 49.

⁸¹ *Ibid.*, 201.

⁸² *Ibid.*, A [B]:17.

⁸³ Chadwick, *op. cit.*, 76, 77.

⁸⁴ *Ibid.*, 77.

major problem. This has been met in large measure by the federal and state governments in the form of work relief and social welfare payments.⁸⁵

AGRICULTURE

Shelby County was originally covered with dense forest, which had to be removed before the soil could be utilized for agricultural purposes. This accomplished, the glaciated soil of the county became the basis of an extensive and varied agriculture.

About four-fifths of the county is covered with Miami clay loam, a light colored soil of the upland, adapted to the production of corn, wheat, oats, and hay.⁸⁶

Wabash loam, the low, rich soil adjacent to the streams, comprises about nine percent of the soil of the county. It is especially adapted to the production of corn.⁸⁷ Carrington black clay, on the sites of former swamps and marshes, also produces enormous crops of corn but is not so extensive as the Wabash loam.⁸⁸

Sioux loam occupies the area midway between the upland and bottoms. It is next to Miami clay loam in extent, comprising about 10 percent of the area of the county.⁸⁹ Seven other types of soil have a total area of less than two square miles.⁹⁰

In 1911 a survey of the soil of the county was made by the Indiana Department of Geology and Natural Resources. As suggestions for increasing the productivity of the soil, it recommended more systematic and extensive systems of drainage and a wider practice of crop rotation.⁹¹ Since that time soil erosion has come to be recognized as a serious problem but not to the extent that it is in many of the counties,

⁸⁵ See the essay entitled "County Department of Public Welfare."

⁸⁶ Allen D. Hole, "Soil Survey of Hancock, Shelby and Johnson Counties", *Indiana Geological Report*, 1911, p. 66. J. A. Bonsteel, "The Miami Series of Soil", *U. S. Department of Agriculture, Bulletin No. 142* (Washington, D. C., 1914), 47.

⁸⁷ Hole, *loc. cit.*, 69.

⁸⁸ *Ibid.*, 52, 68.

⁸⁹ *Ibid.*, 67, 68.

⁹⁰ *Ibid.*, 65.

⁹¹ *Ibid.*, 56, 72.

since 84 percent of the soil of Shelby County is listed as little affected.⁹²

As early as 1848 an agricultural society was formed in the county for the purpose of furthering the interests of agriculture. Under its auspices a county fair was inaugurated in 1849 or 1850. In 1872 the association purchased 40 acres of land one-half mile east of Shelbyville, upon which a race track was constructed and buildings erected. In 1886 the Shelby County Livestock Association was organized.⁹³ These and later organizations did much to advance the agricultural interests of the county.

INDUSTRY

Industry in the early days of Shelby County was simple and closely related to agriculture. With the development of community life, specialized industries appeared. Among the first of these were blacksmith shops, mills of various kinds, tanneries, and distilleries.

The first mill in the county was a combined sawmill and flour mill, built by John Walker in 1822 on Blue River at Shelbyville.⁹⁴ A mill known as Bailey's Mill was built at an early date on the present site of Freeport and attracted people from a considerable distance.⁹⁵ In 1839 Joseph Hageman located a sawmill at Black Hawk (now Mount Auburn). Two years later a "corn cracker" was added.⁹⁶ A tannery was also established there at an early date.⁹⁷ Woollen factories were operated at Pleasant View and on Sugar Creek, near the former site of Doblestown.⁹⁸ In the fifties a carriage factory was started at Waldron and a distillery at Shelbyville. At Boggstown a rather extensive tobacco manufacture flourished following the establishment of the town in 1867.⁹⁹ With the development of better means of transportation, place specialization in industries evolved in the United States and most

⁹² Stephen S. Visher, "Indiana Regional Contrasts in Soil Erosion and Their Chief Causes", *Proceedings of the Indiana Academy of Science* (Fort Wayne, Indiana, 1937), 46:147.

⁹³ Chadwick, *op. cit.*, 254, 255.

⁹⁴ *Ibid.*, 316, 318. *History of Shelby County, Indiana* (1887), 403.

⁹⁵ Chadwick, *op. cit.*, 272.

⁹⁶ *Ibid.*, 264.

⁹⁷ *History of Shelby County, Indiana* (1887), 448.

⁹⁸ Chadwick, *op. cit.*, 267, 270.

⁹⁹ *History of Shelby County, Indiana* (1887), 429, 441, 444.

of the industries established at an early date in Shelby County disappeared. In 1884 the industries of the county included two carriage, buggy, and wagon factories, a pork packing establishment, planing mills, and machine shops at Shelbyville; a harness and saddle shop and a factory manufacturing stoves, queens and glassware, and articles made of copper and tin, at Morristown; a boot and shoe factory and saw and planing mills, in Waldron; and a boot and shoe factory at Middletown.¹⁰⁰

EARLY JOURNALISM

The establishment of the *Shelbyville Argus* by W. H. Heslip in 1832 marked the beginning of journalism in Shelby County. The venture was of short duration, for at the end of two years the paper was discontinued and Heslip returned to his home in Pennsylvania.

In 1838 the *Shelbyville Recorder* was founded by Kendall and Churchman, who after a few months sold it to Coleman and Maymen, who in turn sold it to John P. Wood. With a view perhaps to brightening its prospects, the name was changed to *Indiana Sun*. Judge David Thatcher acquired the paper in 1844 and rechristened it the *National Volunteer*. Thatcher was a man of learning and this, together with his popularity among the people of the county, enabled him to exercise great influence through his paper until 1857, when declining health forced him to retire. In 1859 the paper passed into the hands of Reuben Spicer, who greatly improved it. In 1871 it was sold to John Hoop, in whose ownership it continued until 1880, when it was acquired by Ray and McCorkle, who in that year began the publication of the *Shelbyville Daily Democrat*. In the previous year the *Shelbyville Daily Republican*, the county's first daily newspaper, was founded. The following is a list of other journals of the county, mostly ephemeral, founded before 1881: *The Lancet* (1848); *The Independent* (1850); *The Grape Shot* (1852); *The Scissors and Quill* (1852); *The Banner* (1853); *The Republican Union* (1866); *The Shelby Independent* (1872); *The Shelby Democrat* (1873); *The Volunteer* (1880); *Morristown Sun* (1880).¹⁰¹

SHELBY COUNTY TODAY

In 1930 Shelby County had a population of 26,552. Of

¹⁰⁰ *Leading Industries of the Principal Places in Union, Fayette, Rush, and Shelby Counties, Indiana* (Cincinnati, Ohio, 1884), 105-128.

¹⁰¹ Chadwick, *op. cit.*, 247-252.

this number 13,237 were males and 18,315 were females. Of the 26,139 white people of the county 25,982 were native white and 157 were foreign-born. Of the native white, 24,731 were of native parentage and 1,251 were of foreign-born or mixed parentage. There were 413 negroes. The rural population numbered 15,934 and the urban population, 10,618.¹⁰²

In 1935 there were 2,483 farms in the county, with an average size of 90.7 acres. Of these, 1,080 were farmed by the full owners, 392 by part owners, 32 by managers, and 979 by tenants. The total value of the farm land including buildings was \$15,971,276, the average value per farm, \$6,432 and the average value per acre, \$64.51.¹⁰³ For the 10-year period from 1927 to 1936 inclusive the county's average yield for corn and wheat per acre was 32.4 and 14.4 bushels, respectively, as compared with state averages for these crops of 32.2 and 15.6 bushels, respectively.¹⁰⁴

For the year 1929 the 53 manufacturing establishments of the county employed 2,146 people, paid \$1,960,406 in annual wages and salaries, and manufactured products to the value of \$9,409,885.¹⁰⁵ Included in the list of products manufactured in 1936 in the county were lawn mowers, furniture, mirrors, plate glass, scythe handles, gas radiators, paper products, dried milk, work gloves, and house dresses.¹⁰⁶

The total sales of the 345 retail establishments of the county in 1929 amounted to \$9,045,000. Eighty percent of this amount was made by the 238 independent stores, 12 percent by the 22 chain stores, and eight percent by the 35 stores listed as belonging to other varieties. The 33 wholesale establishments had net sales to the value of \$2,145,729, an average of 79 on their pay rolls, and paid \$92,260 in annual wages.¹⁰⁷

The roads of the county consist of one United States highway, four state highways, and about 900 miles of county

¹⁰² *Fifteenth Census of the United States: 1930, Population* (Washington, D. C., 1931), 3:pt. 1:707.

¹⁰³ *United States Census of Agriculture: 1935* (Washington, D. C., 1937), 1:128.

¹⁰⁴ "Indiana Crop and Live Stock", *Bulletin No. 159* (West Lafayette, Indiana, published by the U. S. Department of Agriculture and the Purdue University Agricultural Experiment Station, 1938), 8, 9.

¹⁰⁵ *Fifteenth Census of the United States: 1930, Manufactures*, 3:162.

¹⁰⁶ Indiana State Planning Board, *Preliminary Survey of County Planning Problems in Indiana Counties* (Indianapolis, Indiana, typewritten, 1935-36; in the Indiana State Library), Shelby County section.

¹⁰⁷ *Fifteenth Census of the United States: 1930, Retail Distribution*, 1:pt. 2:710.

roads, all improved, about one-half with gravel and the other half with concrete and other materials.¹⁰⁸

For the school year 1938-39 the township schools of the county consisted of six consolidated grade and high schools, six consolidated grade schools, four two-room schools, and four one-room schools. The Shelbyville city schools for the same school year consisted of a junior and senior high school, five public grade schools, and one parochial school. The total enrollment of the schools of the county for the year was 5,003. There were 192 teachers employed.¹⁰⁹

The recreation facilities of the county are confined for the greater part to Shelbyville. Here there are two city parks, one containing 14 acres and the other 10 acres. Both are equipped with play apparatus for children. In addition to these there are baseball diamonds, tennis courts, a wading and a swimming pool, and the usual facilities for picnicking.¹¹⁰ The housing in Shelbyville is generally good. In 1930 the value of the farm dwellings of the county averaged \$1,539 as compared with an average for the state of \$1,358.¹¹¹

The W. S. Major Hospital, in Shelbyville, is equipped to care for the needs of the city and county.¹¹²

2. GOVERNMENTAL ORGANIZATION AND RECORDS SYSTEM

LEGAL STATUS OF THE COUNTY

The county in Indiana is an involuntary corporation, sometimes called a quasi-corporation, organized as a political subdivision of the state, solely for governmental purposes. It is an instrumentality of the government, exercising the powers delegated by the state and acting for the state. County officers are agents of the state. The authority of the county and its officers and agents is limited to that expressly or impliedly conferred on them by the Indiana General Assembly. Except as limited by the state constitution, the general as-

¹⁰⁸ *Ibid.*, Wholesale Distribution, 2:20.

¹⁰⁹ *Indiana School Directory, 1938-1939* (Indianapolis, Indiana, 1938), 284-286.

¹¹⁰ Indiana State Planning Board, *op. cit.*

¹¹¹ *Ibid.*

¹¹² *Ibid.*

sembly has full power to create, modify, and abolish counties, and to prescribe their powers, governmental organization, and liabilities.¹

Before the adoption of the Constitution of 1851, the legislature had full power to enact local laws concerning county matters, and many such laws were enacted; but since 1851 there have been constitutional provisions prohibiting the enactment of local laws concerning several specified subjects affecting county organizations and functions.² The general assembly often passes laws applicable to counties and cities having a specified population and to counties containing cities of a specified population. Such laws are sometimes upheld³ and sometimes held void as being in conflict with these constitutional provisions.⁴ Several laws authorize the appointment of county officials but do not require such appointment.

There are 92 counties in Indiana. Knox County, the oldest, was created by proclamation of the governor of the Northwest Territory on June 20, 1790.⁵ The counties of Clark,⁶

¹ Gavin v. Board of County Comrs. (1885), *Reports of Cases Argued and Determined in the Supreme Court of Judicature of the State of Indiana* (Indianapolis, 1852—), 104:201 (series hereafter cited as Ind.), *North Eastern Reporter: Cases Argued and Determined in the Courts of Indiana, Illinois, Ohio, New York, Massachusetts* (St. Paul, Minn., 1885—), 3:846 (series hereafter cited as N. E.); *State ex rel. Workman v. Goldthait* (1909), 172 Ind. 210, 87 N. E. 133; *Applegate v. Pettijohn* (1923), 205 Ind. 122, 125 185 N. E. 911; *McDermott v. Board of County Comrs.* (1915), *Reports of Cases Argued and Determined in the Appellate Court of the State of Indiana* (Indianapolis, 1891—), 60:209 (series hereafter cited as Ind. App.), 110 N. E. 237; *Buck v. Indiana Constr. Co.* (1923), 79 Ind. App. 329, 138 N. E. 356.

² Const. 1851, art. 4, secs. 22, 23.

³ *State ex rel. Hargrave v. Reitz* (1878), 62 Ind. 159; *Campbell v. Indianapolis* (1900), 155 Ind. 186, 57 N. E. 920; *Bullock v. Robison* (1911), 176 Ind. 198, 93 N. E. 998; *Wayne Twp. v. Brown* (1933), 205 Ind. 437, 186 N. E. 841; *Meara v. Brindley* (1935), 207 Ind. 657, 194 N. E. 351; *Groves v. Board of County Comrs.* (1936), 209 Ind. 371, 199 N. E. 137; *Crowe v. Board of County Comrs.* (1936), 210 Ind. 404, 3 N. E. (2d) 76; *Board of County Comrs. v. Crowe* (1938), 214 Ind. 446, 14 N. E. (2d) 907.

⁴ *Campbell v. Indianapolis* (1900), 155 Ind. 186, 57 N. E. 920; *Rushville v. Hayes* (1904), 162 Ind. 193, 70 N. E. 134; *Bumb v. Evansville* (1907), 168 Ind. 272, 80 N. E. 625; *Kraus v. Lehman* (1908), 170 Ind. 408, 83 N. E. 714; *Bullock v. Robison* (1911), 176 Ind. 198, 93 N. E. 998; *Boberg v. Harlem* (1924), 194 Ind. 310, 142 N. E. 705; *Heffelfinger v. Ft. Wayne* (1925), 196 Ind. 689, 149 N. E. 555; *Heckler v. Conter* (1933), 206 Ind. 376, 187 N. E. 878; *Crowe v. Board of County Comrs.* (1936), 210 Ind. 404, 3 N. E. (2d) 76.

⁵ William Henry Smith, editor, *The St. Clair Papers* (Cincinnati, 1882), 2:166 note. George Pence and Nellie C. Armstrong, *Indiana Boundaries: Territory, State and County* (1933), 21, 514.

⁶ Pence and Armstrong, *op. cit.*, 256.

and Dearborn⁷ were created on February 3, 1801 and March 7, 1803, respectively, by proclamation of the Governor of Indiana Territory. The counties of Franklin,⁸ Gibson,⁹ Harrison,¹⁰ Jackson,¹¹ Jefferson,¹² Orange,¹³ Perry,¹⁴ Posey,¹⁵ Switzerland,¹⁶ Warrick,¹⁷ Washington,¹⁸ and Wayne¹⁹ were created by special acts of the General Assembly of Indiana Territory. These 15 counties are all mentioned in the Constitution of 1816.²⁰ The remaining 77 counties were created by special acts of the General Assembly of the State of Indiana.

The Constitution of 1816 provided: "The General Assembly, when they lay off any new county, shall not reduce the old county, or counties, from which the same shall be taken to a less content than four hundred square miles."²¹ The Constitution of 1816 further provided that the legislature, at the time they lay off a new county, should provide certain funds for a public library.²² The Constitution of 1851 provides: "No county shall be reduced to an area less than four hundred square miles; nor shall any county, under that area, be further reduced."²³ The Constitution of 1851 further provides: "The Senate shall not exceed fifty, nor the House of Representatives one hundred members; and they shall be chosen by the electors of the respective counties or districts, into which the State may, from time to time, be divided."²⁴ The

⁷ *Ibid.*, 310.

⁸ Acts 1810, ch. 6.

⁹ Acts 1813, ch. 23.

¹⁰ Acts 1808, ch. 1.

¹¹ Acts 1815, ch. 1.

¹² Acts 1810, ch. 2.

¹³ Acts 1815, ch. 12.

¹⁴ Acts 1814, ch. 7.

¹⁵ *Ibid.*

¹⁶ *Ibid.*, ch. 9.

¹⁷ Acts 1813, ch. 23.

¹⁸ Acts 1813-14, ch. 10.

¹⁹ Acts 1810, ch. 1.

²⁰ Const. 1816, art. 12, sec. 9.

²¹ *Ibid.*, art. 11, sec. 12.

²² *Ibid.*, art. 9, sec. 5.

²³ Const. 1851, art. 15, sec. 7.

²⁴ *Ibid.*, art. 4, sec. 2.

Constitution of 1851 provides that a new county may be created out of the counties of Perry and Spencer if approved by election of the voters in those counties in such manner as may be prescribed by law;²⁵ but no such new county has been created. These are all of the constitutional provisions concerning the creation of counties in Indiana.

The legislature passed a general law in 1861 providing for the creation of new counties by election in the affected old counties after petition has been presented to the boards of commissioners in the several counties which would be affected by the proposal.²⁶ No new counties have been created since the enactment of this law.

STRUCTURAL DEVELOPMENT OF COUNTY GOVERNMENT

From the organization of Shelby County in 1822,²⁷ the following officers, boards, and courts (arranged alphabetically in three groups) have existed or been legally available in the county:

OFFICERS

Appraiser (1841 to 1872)²⁸

Appraiser of state lands (permissive since 1889)²⁹

Auditor (1841 to date)³⁰

Bailiff (permissive since 1852)³¹

Clerk of the circuit court (1822 to date)³²

Coroner (1822 to date)³³

County agent (1822 to 1852)³⁴

²⁵ *Ibid.*, schedule, par. 15.

²⁶ Acts 1861; Burns 26-301 to 26-310; William E. Baldwin, editor, *Baldwin's Indiana Statutes Annotated 1924* (Cleveland, Ohio, 1934—), 5044 to 5053 (series hereafter cited as Baldwin).

²⁷ Acts 1821-22, ch. 31, secs. 1, 2.

²⁸ See the essay entitled "County Assessor."

²⁹ See the essay entitled "Board of Commissioners."

³⁰ See the essay entitled "Auditor."

³¹ See the essay entitled "Circuit Court."

³² See the essay entitled "Clerk of the Circuit Court."

³³ See the essay entitled "Coroner."

³⁴ See the essay entitled "Auditor."

County agricultural agent (permissive 1913 to 1937, mandatory since 1937)³⁵
 County assessor (1822 to 1852, 1872 to 1875, 1891 to date)³⁶
 County attendance officer (permissive since 1913)³⁷
 County attorney (permissive since 1899)³⁸
 County director of public welfare (1936 to date)³⁹
 County engineer (permissive since 1852)⁴⁰
 County health commissioner (1909 to 1938)⁴¹
 County health officer (1881 to 1909, 1938 to date)⁴²
 County highway superintendent (1913 to 1938)⁴³
 County highway supervisor (1938 to date)⁴⁴
 County inspector of weights and measures (permissive since 1911)⁴⁵
 County physician (permissive since 1852)⁴⁶
 County school commissioner (1829 to 1849)⁴⁷
 County school examiner (1838 to 1873)⁴⁸
 County superintendent (1873 to 1927)⁴⁹
 County superintendent of schools (1927 to date)⁵⁰
 County veterinarian (permissive since 1915)⁵¹
 Court page (permissive since 1822)⁵²

³⁵ See the essay entitled "County Agricultural Agent."

³⁶ See the essay entitled "County Assessor."

³⁷ See the essays entitled "County Board of Education" and "County Superintendent of Schools."

³⁸ See the essay entitled "Board of Commissioners."

³⁹ See the essay entitled "County Department of Public Welfare."

⁴⁰ See the essays entitled "Board of Commissioners" and "Surveyor."

⁴¹ See the essay entitled "County Health Officer."

⁴² *Ibid.*

⁴³ See the essay entitled "County Highway Supervisor."

⁴⁴ *Ibid.*

⁴⁵ Acts 1911, ch. 263. Acts 1913, ch. 161. Acts 1925; Burns 69-104, 69-106 to 69-109; Baldwin 16335, 16337 to 16340.

⁴⁶ See the essay entitled "Board of Commissioners."

⁴⁷ See the essay entitled "County School Fund Board."

⁴⁸ See the essay entitled "County Superintendent of Schools."

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ See the essay entitled "Board of Commissioners."

⁵² See the essay entitled "Circuit Court."

Court reporter (permissive since 1881)⁵³
 District attorney (1853 to 1873)⁵⁴
 District road supervisors (1822 to 1879)⁵⁵
 Election inspectors (1822 to date)⁵⁶
 Election judges (1822 to date)⁵⁷
 Election sheriffs (1929 to date)⁵⁸
 Home demonstration agent (permissive since 1914)⁵⁹
 Inspector of beef, flour, pork, salt, and hay (permissive since 1822)⁶⁰
 Jury commissioners (1881 to date)⁶¹
 Lister (1822 to 1841)⁶²
 Poll clerks (1852 to date)⁶³
 Probation officer (permissive since 1903)⁶⁴
 Prosecuting attorney (1822 to date)⁶⁵
 Public health nurse (permissive since 1935)⁶⁶
 Recorder (1822 to date)⁶⁷
 Registration clerks (1911 to 1917)⁶⁸
 Registration inspector (1911 to 1917)⁶⁹
 Registration officer (1889 to 1892, 1933 to date)⁷⁰
 Sheriff (1822 to date)⁷¹
 Surveyor (1822 to date)⁷²

⁵³ *Ibid.*

⁵⁴ See the essay entitled "Prosecuting Attorney."

⁵⁵ See the essay entitled "County Highway Supervisor."

⁵⁶ See the essay entitled "County Board of Election Commissioners."

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

⁵⁹ See the essay entitled "County Agricultural Agent."

⁶⁰ See the essay entitled "County Health Officer."

⁶¹ See the essay entitled "Circuit Court."

⁶² See the essay entitled "County Assessor."

⁶³ See the essay entitled "County Board of Election Commissioners."

⁶⁴ See the essay entitled "Circuit Court."

⁶⁵ See the essay entitled "Prosecuting Attorney."

⁶⁶ Acts 1935; Burns, 1939 suppl., 35-118, 35-123; Baldwin, 1935 suppl., 8404-1, 8404-6.

⁶⁷ See the essay entitled "Recorder."

⁶⁸ See the essay entitled "Registration Officer."

⁶⁹ *Ibid.*

⁷⁰ *Ibid.*

⁷¹ See the essay entitled "Sheriff."

⁷² See the essay entitled "Surveyor."

Tax collector (1824 to 1911)⁷³
 Tax ferrets (permissive since 1905)⁷⁴
 Tobacco inspector (permissive since 1822)⁷⁵
 Treasurer (1822 to date)⁷⁶
 Truant officer (permissive 1897 to 1913)⁷⁷
 Trustee of public seminary (1822 to 1853)⁷⁸
 Trustees of school sections (1822 to 1829)⁷⁹

BOARDS

Board of children's guardians (1901 to 1936)⁸⁰
 Board of commissioners (1822 to 1824, 1827 to date)⁸¹
 Board of county charities and corrections (1899 to 1936)⁸²
 Board of equalization (1824 to 1890)⁸³
 Board of finance (1907 to date)⁸⁴
 Board of justices (1824 to 1827)⁸⁵
 Board of library trustees (permissive since 1852)⁸⁶
 Board of primary election commissioners (1907 to date)⁸⁷
 Board of registration commissioners (1917 to 1919)⁸⁸
 Board of turnpike directors (1879 to 1913)⁸⁹
 Commission of public records (1939 to date)⁹⁰

⁷³ See the essay entitled "Treasurer."

⁷⁴ See the essay entitled "Board of Commissioners."

⁷⁵ See the essay entitled "County Health Officer."

⁷⁶ See the essay entitled "Treasurer."

⁷⁷ See the essay entitled "County Board of Education."

⁷⁸ See the essay entitled "County School Fund Board."

⁷⁹ *Ibid.*

⁸⁰ See the essay entitled "County Department of Public Welfare."

⁸¹ See the essay entitled "Board of Commissioners."

⁸² See the essay entitled "County Department of Public Welfare."

⁸³ See the essay entitled "County Board of Review."

⁸⁴ See the essay entitled "Board of Finance."

⁸⁵ See the essay entitled "Board of Commissioners."

⁸⁶ *The Revised Statutes of the State of Indiana, 1852* (Indianapolis, 1852), vol. 1 (series cited as Rev. Stat. 1852); Burns 41-503; Baldwin 10321 note. Acts 1861; Burns 41-507; Baldwin 10321 note. *Traylor v. Dykins* (1883), 91 Ind. 229.

⁸⁷ See the essay entitled "Board of Primary Election Commissioners."

⁸⁸ See the essay entitled "Registration Officer."

⁸⁹ See the essays entitled "Board of Commissioners" and "County Highway Supervisor."

⁹⁰ See the essay entitled "Commission of Public Records."

County board of canvassers (1843 to date)⁹¹
 County board of education (1873 to date)⁹²
 County board of election commissioners (1889 to date)⁹³
 County board of health (1881 to 1909)⁹⁴
 County board of public welfare (1936 to date)⁹⁵
 County board of review (1891 to date)⁹⁶
 County board of tax adjustment (1932 to date)⁹⁷
 County council (1899 to date)⁹⁸
 County hospital governing board (permissive since 1903)⁹⁹
 County department of public welfare (1936 to date)¹⁰⁰
 County planning commission (permissive since 1935)¹⁰¹
 County public library board (permissive since 1917)¹⁰²
 County school fund board (1935 to date)¹⁰³
 Precinct board of election (1852 to date)¹⁰⁴
 Precinct registration board (1911 to 1917, 1919 to 1927)¹⁰⁵
 Township board of registry (1867 to 1869)¹⁰⁶

COURTS

Circuit court (1822 to date)¹⁰⁷
 Court of common pleas (1853 to 1873)¹⁰⁸
 Court of conciliation (1853 to 1865)¹⁰⁹
 Magistrate's court (permissive since 1939)¹¹⁰

⁹¹ See the essay entitled "County Board of Canvassers."

⁹² See the essay entitled "County Board of Education."

⁹³ See the essay entitled "County Board of Election Commissioners."

⁹⁴ See the essay entitled "County Health Officer."

⁹⁵ See the essay entitled "County Department of Public Welfare."

⁹⁶ See the essay entitled "County Board of Review."

⁹⁷ See the essay entitled "County Board of Tax Adjustment."

⁹⁸ See the essay entitled "County Council."

⁹⁹ Acts 1903, 1939; Burns, 1939 suppl., 22-3203; Baldwin, 1939 suppl., 4509.

¹⁰⁰ See the essay entitled "County Department of Public Welfare."

¹⁰¹ Acts 1935; Burns, 1939 suppl., 26-2301; Baldwin, 1935 suppl., 5205-1.

¹⁰² Acts 1917, 1921, 1927, 1939; Burns, 1939 suppl., 41-510; Baldwin, 1939 suppl., 10321.

¹⁰³ See the essay entitled "County School Fund Board."

¹⁰⁴ See the essay entitled "County Board of Election Commissioners."

¹⁰⁵ See the essay entitled "Registration Officer."

¹⁰⁶ *Ibid.*

¹⁰⁷ See the essay entitled "Circuit Court."

¹⁰⁸ *Ibid.*

¹⁰⁹ *Ibid.*

¹¹⁰ Acts 1939, ch. 164. No magistrates have been appointed in Shelby County under authority of this act.

Probate court (1829 to 1853)¹¹¹

Superior court (1911 to 1913)¹¹²

In the early days of the county few public officials were needed. A court was needed to try civil and criminal cases and to administer estates of decedents. Criminal cases constituted a large majority of the court's business. The sheriff preserved order generally, took part in conducting elections, and executed the process of the court. The clerk of the circuit court acted as ministerial officer of the court, served as clerk of the board doing county business, took part in elections, county finance, and taxation, and was in general a "county clerk"—a name by which he is often called now. The duties of the coroner, prosecuting attorney, recorder, surveyor, and treasurer were similar to their present duties except that taxes were collected by a county tax collector (instead of the treasurer) until 1841. County business was transacted by the board of commissioners from 1822 to 1824 and 1827 to 1899, and by the board of justices from 1824 to 1827, and by the board of commissioners and county council since 1899. The board doing county business had charge of the acquisition, use, and disposition of county property, constructed public buildings, levied taxes, issued licenses, established and constructed roads and bridges, allowed claims against the county, employed public officials other than the constitutional officers, and provided for public education and poor relief. As a result of increased property valuations, property transfers, business activity, and transportation facilities, taxation gradually grew from a very simple form to a more complex form, affecting more kinds of property and requiring additional public officials. New courts were created and abolished from time to time. The office of auditor (the financial agent of the county) was created in 1841 to take over many duties of the clerk of the circuit court. The first tax law for the support of schools was passed in 1849. Since the adoption of the Constitution of 1851 the public school facilities have steadily improved. In 1899 the "County Reform Law" was enacted, transferring to the newly created county council many duties concerning taxation and finance previously performed by the board of commissioners. In recent years public health service and public welfare assistance have become important functions of the county and its officials.

¹¹¹ See the essay entitled "Circuit Court."

¹¹² *Ibid.*

GENERAL ADMINISTRATION

The general administrative control of county matters is vested in the board of commissioners and the county council.¹¹³

CONTRACTS

The board of commissioners, as the general governing body of the county, is the agency entrusted with the making of contracts for the purchase of materials and supplies for all county offices, and for the construction of county buildings and other public improvements.¹¹⁴ The board cannot bind the county by any contract which is beyond the scope of its powers.¹¹⁵ While contracts made by the board are ordinarily in writing, the board may, in certain cases, bind the county by oral contracts.¹¹⁶

Though the statutes prescribing the methods of letting contracts vary in detail, their general features are fairly uniform. The board is usually required to prepare specifications of commodities to be purchased or work to be performed, together with plans, drawings, or models, if necessary or desirable, and to place these on file in the auditor's office for public inspection. Notice is then given by publication in newspapers of general circulation that the specifications are on file for examination and that sealed bids will be received up to a certain date. The board, after examination of the bids submitted, is required to award the contract to the lowest responsible bidder, or, in some instances, the lowest and best bidder.¹¹⁷ The right is usually reserved to the board, however, to reject any and all bids, if they are

¹¹³ Many duties of these boards are discussed specifically under appropriate headings of this essay. See also the essays entitled "Board of Commissioners" and "County Council."

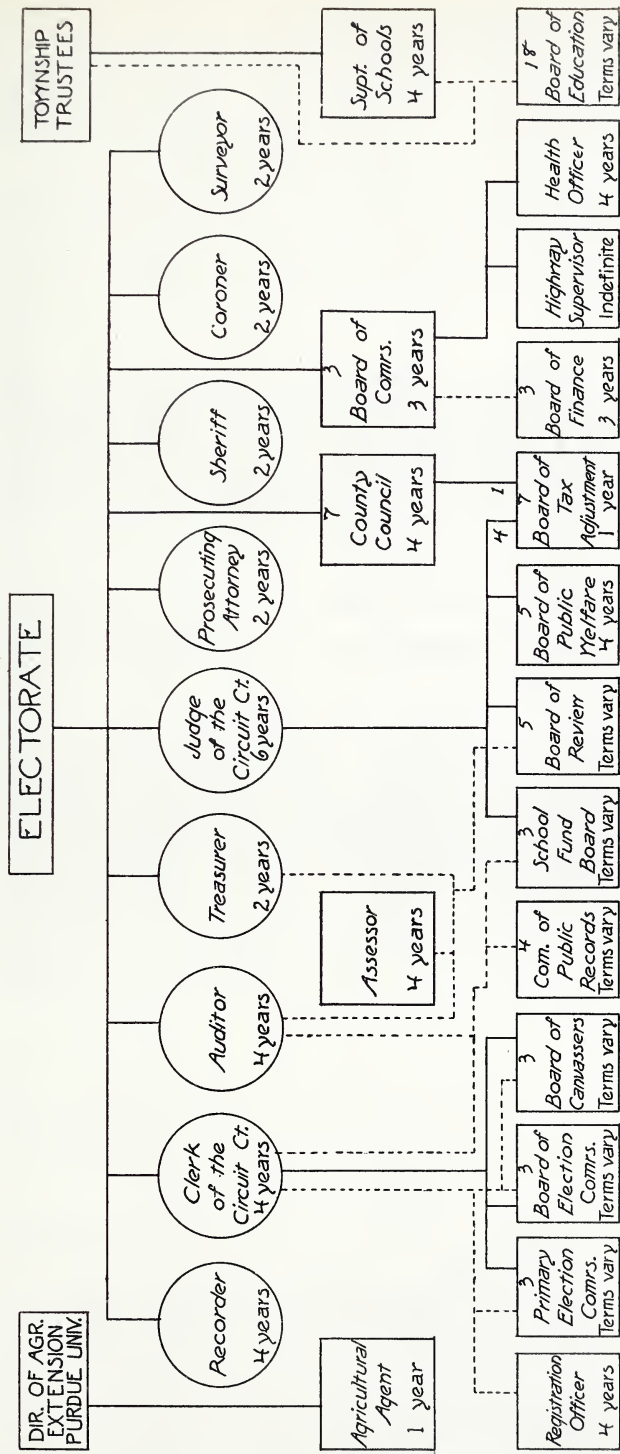
¹¹⁴ Acts 1899, 1903, 1933; Burns 26-536, 26-537; Baldwin 5401, 5402. Acts 1907; Burns 26-2001 to 26-2009; Baldwin 5100 to 5108. Acts 1913, 1929, 1933; Burns 53-101 to 53-106; Baldwin 14079 to 14083.

Use of prison-made goods. *Opinions of the Attorney General of Indiana 1939* (Indianapolis, 1940), 98.

¹¹⁵ *Hight v. Board of County Comrs.* (1879), 68 Ind. 575, 577; *Driftwood Valley Turnpike Co. v. Board of County Comrs.* (1880), 72 Ind. 226; *Board of County Comrs. v. Bradford* (1880), 72 Ind. 455.

¹¹⁶ *McCabe v. Board of County Comrs.* (1874), 46 Ind. 380; *Board of County Comrs. v. Ritter* (1883), 90 Ind. 362.

¹¹⁷ The courts have held that provisions of this nature vest some discretion in the board in determining the bidder to whom the contract shall be awarded. *Ness v. Board of County Comrs.* (1912), 178 Ind. 221, 98 N. E. 33; *Eigenmann v. Board of County Comrs.* (1913), 53 Ind. App. 1, 101 N. E. 38.



Circles - constitutional officers.
 Squares - statutory officers.
 Figures - number of members and term of office.
 Solid lines - elected or appointed.
 Broken lines - ex officio.

Commission of Public Records, selection of two members not indicated: One, the judge of Circuit Court; one, the president of the board of commissioners.
 Board of Tax Adjustment, selection of two members not indicated: One, the Mayor of Shelbyville or his appointee; one, a member of the board of school commissioners of Shelbyville.

Health Officer, appointment approved by state board of health.

Chart of Shelby County Governmental Organization, 1940

unsatisfactory, and re-advertise for new bids. Contracts cannot be made unless money has previously been appropriated by the county council for the particular purpose involved.¹¹⁸

As a general rule, the time for performance of a contract may extend beyond the official terms of the county commissioners, if the contract is made in good faith.¹¹⁹ A contract employing an attorney is an exception to this rule.¹²⁰

ACTIONS

Ordinarily an action for or against the county is brought by or against the board of commissioners.¹²¹ An action to recover money from the county cannot be maintained until a claim therefor has been presented to the board of commissioners and disallowed in whole or in part; but the complaint in such suit need not allege such presentation and disallowance, this being a matter of defense.¹²² If the allowance of a claim is illegal, unwarranted, or unauthorized, the board of commissioners may sue to recover from the payee the amount paid. If the board does not bring such suit within 60 days after such allowance, any taxpayer may demand such suit; and if such demand is refused, the taxpayer may sue for the county.¹²³ If money is illegally paid out of the county treasury, suit to recover the same from the payee may be maintained in the name of the state on the relation of the board of commissioners or the officer making disbursement. If such suit is not brought within 30 days, any citizen or taxpayer may make written demand on the board of commissioners to bring such suit; and if the board fails or refuses to do so, he may bring suit in the name of the state on his own relation.¹²⁴

¹¹⁸ Acts 1899; Burns 26-525, 26-527; Baldwin 5389, 5391.

¹¹⁹ Board of County Comrs. v. Shields (1891), 130 Ind. 6, 29 N. E. 385; Jessup v. Hinchman (1922), 77 Ind. App. 460, 133 N. E. 853.

¹²⁰ Board of County Comrs. v. Taylor (1890), 123 Ind. 148, 23 N. E. 752.

¹²¹ 1 Rev. Stat. 1852; Burns 26-606; Baldwin 5220. Shilling v. State *ex rel.* Board of County Comrs. (1901), 158 Ind. 185, 62 N. E. 49.

¹²² Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275. Bass Foundry & Mach. Works v. Board of County Comrs. (1888), 115 Ind. 234, 17 N. E. 593; Board of County Comrs. v. Tichenor (1891), 129 Ind. 562, 29 N. E. 32; Mueller v. Board of County Comrs. (1920), 73 Ind. App. 196, 127 N. E. 15.

¹²³ Acts 1897; Burns 26-811; Baldwin 5262. Sudbury v. Board of County Comrs. (1901), 157 Ind. 446, 62 N. E. 45.

¹²⁴ Acts 1899; Burns 26-545; Baldwin 5410.

The board of commissioners, as relator, may sue, in the name of the state, on official bonds to recover county funds.¹²⁵ The auditor, as relator, may sue, in the name of the state, to recover money owing to the county.¹²⁶

The treasurer sues in his name, as treasurer, to collect property taxes.¹²⁷ Suit to collect inheritance taxes is brought in the name of the county.¹²⁸ After a claim therefor has been disallowed by the board of commissioners, the taxpayer may sue the board of commissioners to recover taxes illegally assessed or collected.¹²⁹

Land needed by the county for public buildings,¹³⁰ highways, bridges, culverts,¹³¹ drainage, sewers,¹³² or airports¹³³ may be acquired by the county under its power of eminent domain, on payment of the value fixed by the court in condemnation proceedings.

The action of mandamus may be brought against any officer to compel the performance of any act which the law specifically enjoins, or any duty resulting from his office or trust.¹³⁴ For example, mandamus lies to compel: The auditor to draw warrants on the county treasury;¹³⁵ the board of commissioners to take action on claims that have been properly presented,¹³⁶ to approve official bonds,¹³⁷ and to repair or rebuild bridges;¹³⁸ and the county council to make appropriations.¹³⁹

¹²⁵ Acts 1881 (Spec. Sess.); Burns 2-203; Baldwin 18. *Graham v. State ex rel. Board of County Comrs.* (1879), 66 Ind. 386; *Shilling v. State ex rel. Board of County Comrs.* (1901), 158 Ind. 185, 62 N. E. 49.

¹²⁶ 1 Rev. Stat. 1852; Burns 49-3017; Baldwin 5431. *Vanarsdall v. State ex rel. Watson* (1879), 65 Ind. 176; *Demarest v. Holdeman* (1901), 157 Ind. 467, 62 N. E. 17.

¹²⁷ Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754.

¹²⁸ Acts 1931; Burns 6-2415; Baldwin 15953.

¹²⁹ Acts 1919; Burns 64-2819; Baldwin 15881. Acts 1923; Burns 64-2824; Baldwin 15884. *Cody v. Board of County Comrs.* (1932), 204 Ind. 87, 183 N. E. 404; *Board of County Comrs. v. Millikan* (1934), 207 Ind. 142, 190 N. E. 185.

¹³⁰ Acts 1899; Burns 26-2101; Baldwin 5109.

¹³¹ Acts 1919; Burns 36-303; Baldwin 8861. Acts 1935; Burns, 1939 suppl., 36-711; Baldwin, 1935 suppl., 8861-1.

¹³² Acts 1937; Burns, 1939 suppl., 26-640; Baldwin, 1937 suppl., 5236-1.

¹³³ Acts 1920 (Spec. Sess.); Burns 14-302; Baldwin 4022.

¹³⁴ Acts 1881 (Spec. Sess.), 1911; Burns 3-2202; Baldwin 1091.

¹³⁵ *Gill v. State ex rel. Board of County Comrs.* (1880), 72 Ind. 266.

¹³⁶ *Board of County Comrs. v. State ex rel. Reed* (1913), 179 Ind. 644, 102 N. E. 97.

¹³⁷ *State ex rel. Taylor v. Board of County Comrs.* (1890), 124 Ind. 554, 25 N. E. 10.

¹³⁸ *State ex rel. Roundtree v. Board of County Comrs.* (1881), 80 Ind. 478.

¹³⁹ *Shelby County Council v. State ex rel. School City of Shelbyville* (1900), 155 Ind. 216, 57 N. E. 712.

In some instances a county officer can be enjoined from acting illegally. Some of the acts prevented by injunction are: Collection of illegal taxes;¹⁴⁰ doing of illegal acts that would increase taxation;¹⁴¹ payment of illegal claims;¹⁴² and making an illegal contract.¹⁴³

The county is not liable for damages resulting from the acts or omissions of its officers, except where such liability is imposed or permitted by statute.¹⁴⁴

Failure of the county council to make appropriation for the debt or demand constituting the subject matter of the suit does not prevent maintenance of the suit or recovery of judgment.¹⁴⁵ No judgment against a county is enforceable except out of moneys appropriated by the county council for that purpose; but, by mandamus proceedings (against the county council, board of commissioners, and auditor), the county council may be compelled to make such appropriation.¹⁴⁶

It is the duty of the prosecuting attorney to superintend, on behalf of the county, all suits in which the county may be interested or involved,¹⁴⁷ including suits to collect taxes and tax penalties¹⁴⁸ and suits against officers or on their bonds.¹⁴⁹ The prosecuting attorney must make a report to the board of commissioners each month showing the causes in which he appeared in person or by deputy.¹⁵⁰

¹⁴⁰ Hobbs v. Board of County Comrs. (1885), 103 Ind. 575, 3 N. E. 263.

¹⁴¹ State *ex rel.* Davis v. Board of County Comrs. (1905), 165 Ind. 262, 74 N. E. 1091.

¹⁴² Warren Agri. Joint Stock Co. v. Barr (1876), 55 Ind. 30. But see Bentley v. Board of County Comrs. (1936), 102 Ind. App. 533, 200 N. E. 499.

¹⁴³ Farris v. Jones (1887), 112 Ind. 498, 14 N. E. 484.

¹⁴⁴ State *ex rel.* Board of County Comrs. v. Board of County Comrs. (1908), 170 Ind. 595, 608, 85 N. E. 513.

¹⁴⁵ Acts 1899; Burns 26-527; Baldwin 5391. Board of County Comrs. v. Pike Civil Twp. (1907), 168 Ind. 535, 81 N. E. 489.

¹⁴⁶ Acts 1899; Burns 26-528; Baldwin 5392. Formerly the public property of the county was subject to execution to satisfy such judgment. 2 Rev. Stat. 1852; Burns 26-803; Baldwin 5253.

¹⁴⁷ 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460.

¹⁴⁸ Acts 1931; Burns 6-2415; Baldwin 15953. Acts 1937; Burns, 1939 suppl., 16-320; Baldwin, 1937 suppl., 3811-4. Acts 1919; Burns 64-608, 64-719, 64-1319, 64-1512, 64-2208; Baldwin 15576, 15633, 15723, 15773, 15815. Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754. Acts 1933, 1937; Burns, 1939 suppl., 64-2628; Baldwin, 1937 suppl., 16009.

¹⁴⁹ Acts 1917; Burns 60-227; Baldwin 13878.

¹⁵⁰ Acts 1933; Burns 49-2695; Baldwin 7550.

RECORDATION

The recordation of deeds, mortgages, plats, and other private documents for purposes of preservation and public notice is a most important function of the county, since commerce and titles to property are directly affected thereby.¹⁵¹ To entitle any conveyance, mortgage, or other written instrument to be recorded, the execution thereof must be acknowledged or proved in the manner required by law,¹⁵² and the intangible tax thereon (if any) must be paid.¹⁵³ No conveyance of land can be recorded by the recorder until after the instrument has been presented to the auditor and he has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.¹⁵⁴

The recorder and the clerk of the circuit court are the recording officers. Lists of documents which may be recorded by them are set out in the essays on their offices in Part B of this book.

Indiana has no system of registration of land titles. A bill to establish the "Torrens system" of registration of land titles was introduced in the 1939 session of the general assembly but was defeated.

Indiana has a system of registering titles to motor vehicles (law administered by the state bureau of motor vehicles)¹⁵⁵ but has no system of registering titles to other personal property.

JUDICIARY

Shelby Circuit Court (the only court of record in the

¹⁵¹ Acts 1935; Burns, 1939 suppl., 51-504; Baldwin, 1935 suppl., 13227-4. 1 Rev. Stat. 1852; Burns 56-118; Baldwin 14664. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671. Acts 1897; Burns 56-120. Acts 1877; Burns 56-716; Baldwin 998.

¹⁵² *The Revised Laws of the State of Indiana, 1831* (Indianapolis, 1831), ch. 41, secs. 7, 11 (volume hereafter cited as Rev. Laws 1831). Acts 1905; Burns 48-801; Baldwin 12473. 1 Rev. Stat. 1852; Burns 49-3212; Baldwin 14666. Acts 1935; Burns, 1939 suppl., 51-507; Baldwin, 1935 suppl., 13227-7. 1 Rev. Stat. 1852, Acts 1859; Burns 56-123 to 56-130, 56-132 to 56-137; Baldwin 14674 to 14676, 14679 to 14683, 14666, 14669, 14658, 14677, 14659, 14731.

The acknowledgment or proof must be recorded with the instrument. *Ibid.*

¹⁵³ Acts 1933; Burns 64-929; Baldwin 15927.

¹⁵⁴ 1 Rev. Stat. 1852; Burns 49-3214; Baldwin 5478. Acts 1919; Burns 64-1409; Baldwin 15746.

¹⁵⁵ Acts 1921, 1931, 1935, 1939; Burns, 1939 suppl., 47-301; Baldwin, 1939 suppl., 11128.

county) has been in active existence since 1822. Shelby County alone has constituted the 16th judicial circuit since January 29, 1913. Before then the county belonged to judicial circuits composed of more than one county. The circuit court has consisted of one judge since 1851. Before then it was composed of three judges (two associate judges who served in Shelby County only, and one president judge who served in each county of the judicial circuit). The following courts previously existed in Shelby County, but were abolished: Court of common pleas, 1853 to 1873; probate court, 1829 to 1853; court of conciliation, 1853 to 1865; superior court, 1911 to 1913.¹⁵⁶

The circuit court has original jurisdiction of naturalization proceedings under the federal laws, all criminal cases under the state laws (except those punishable only by fine not exceeding \$3, of which the justices of the peace have exclusive original jurisdiction), all civil actions at law, all suits in equity (including divorce suits), election contests, juvenile matters, insanity inquests and commitments, proceedings for removal of county officers, proceedings to commit persons to hospitals operated by Indiana University, guardianships, probate of wills, and administration of estates of decedents, minors, and insane persons. The circuit court is known as the "Juvenile Court" when exercising jurisdiction of juvenile matters.¹⁵⁷ The United States Department of

¹⁵⁶ See the essay entitled "Circuit Court."

¹⁵⁷ General provisions. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

Naturalization proceedings. *U. S. Statutes at Large*, 2:153, 155 (law of 1802); 4:69 (law of 1824). *The Code of the Laws of the U. S., A. of a General and Permanent Character in Force January 3, 1935* (Washington, 1935), title 8, sec. 357 (laws of 1906, 1911, 1913), (volume hereafter cited as *U. S. C.*).

Criminal cases within exclusive jurisdiction of justices of the peace. Acts 1905; Burns 9-711, 9-715; Baldwin 2080, 2084.

Election contests. Acts 1933, 1935; Burns, 1939 suppl., 29-2301 to 29-2309; Baldwin, 1935 suppl., 7428 to 7435, 7427-1. *State ex rel. Lord v. Sullivan* (1938), 214 Ind. 279, 15 N. E. (2d) 384.

Removal of county officers. Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052. *Bateman v. State* (1938), 214 Ind. 138, 14 N. E. (2d) 1007.

Juvenile matters. Acts 1903, 1913, 1931, 1935, 1937; Burns, 1939 suppl., 9-2801; Baldwin, 1937 suppl., 1759.

Insane persons. 2 Rev. Stat. 1852, Acts 1895; Burns 8-202 *et seq.*; Baldwin 3460 *et seq.* Acts 1855; Burns 22-1401 *et seq.*; Baldwin 1081 *et seq.* Acts 1939; Burns, 1939 suppl., 22-1742; Baldwin, 1939 suppl., 4227-2.

Wills. 2 Rev. Stat. 1852; Burns 7-401, 7-414, 7-503, 7-506; Baldwin 3376, 3388, 3393, 3401. Acts 1911, 1921, 1933; Burns 7-504; Baldwin 3395.

Labor does not furnish the Shelby Circuit Court with the necessary printed forms for naturalization proceedings, hence this court is prevented from exercising its naturalization jurisdiction. Naturalization forms were furnished to this court until 1930 and will be furnished again whenever the number of aliens in the county is large enough.¹⁵⁸

The circuit court has appellate jurisdiction¹⁵⁹ to review decisions of justices of the peace,¹⁶⁰ municipal courts punishing violations of ordinances,¹⁶¹ board of commissioners,¹⁶² board of review fixing value of property for taxation,¹⁶³ taxing authorities determining that property is taxable,¹⁶⁴ board of public works or board of park commissioners of any city in the county (or city council performing such functions),¹⁶⁵ and other inferior tribunals when no express direction is given as to the court to which the appeal lies.¹⁶⁶

The circuit court has power to make all proper judgments, sentences, decrees, orders, and injunctions; to punish contempts; to issue all process necessary for the exercise of its jurisdiction (including process to inferior courts);¹⁶⁷ and to adopt rules for conducting its business.¹⁶⁸ Decisions of the circuit court are reviewable by the Supreme Court of Indiana or the Appellate Court of Indiana.¹⁶⁹

In each township in Shelby County there is a justice of the peace, elected for a four-year term by the voters of the

Hospitals operated by Indiana University. Acts 1939; Burns, 1939 suppl., 28-5417; Baldwin, 1939 suppl., 14078-89c.

¹⁵⁸ Interview of March 5, 1940 with Walter A. Kiefer, Assistant District Director of U. S. Immigration and Naturalization Service, Cincinnati District.

¹⁵⁹ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

¹⁶⁰ 2 Rev. Stat. 1852; Burns 5-1001; Baldwin 1931.

¹⁶¹ Acts 1905; Burns 4-2415; Baldwin 2390. Acts 1917; Burns 4-2603; Baldwin 11608. Acts 1921; Burns 4-2702; Baldwin 12172. Acts 1923; Burns 4-2802; Baldwin 12336.

¹⁶² Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275. 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277. Acts 1905; Burns 36-1501; Baldwin 8858. Acts 1933; Burns 27-117; Baldwin 5753.

State *ex rel* Sink v. Cass Circuit Court (1938), 214 Ind. 323, 15 N. E. (2d) 624.

¹⁶³ Acts 1927; Burns 64-1020; Baldwin 15686.

¹⁶⁴ Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

¹⁶⁵ Acts 1933; Burns 48-4501; Baldwin 11576.

¹⁶⁶ Hamilton v. Fort Wayne (1880), 73 Ind. 1.

¹⁶⁷ 2 Rev. Stat. 1852; Burns 4-305 to 4-307, 4-312; Baldwin 1398 to 1400, 1405.

¹⁶⁸ 2 Rev. Stat. 1852; Burns 4-313; Baldwin 1406.

¹⁶⁹ 2 Rev. Stat. 1852. pt. 2, ch. 1, sec. 550. Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356.

township. He has original jurisdiction (concurrent with the circuit court) of certain civil actions involving \$200 or less, with power to render judgment up to \$300 on confession, exclusive original jurisdiction of misdemeanors under the state laws punishable by fine not exceeding \$3, original jurisdiction (concurrent with the circuit court) of all other misdemeanors under the state laws punishable by fine only, with power to assess fines only up to \$25, and jurisdiction as a committing magistrate in criminal cases under the state laws. His civil jurisdiction is limited to his township, but his criminal jurisdiction is co-extensive with his county. Each justice of the peace must pay to the county treasurer all fines which he collects. Shelby County has had justices of the peace since its organization in 1822.¹⁷⁰

Arranged according to subject matter, the courts existing in Shelby County from 1822 to date have had original jurisdiction as follows:—*Civil actions at law*: (a) circuit court (1822 to date);¹⁷¹ (b) probate court (1838 to 1853);¹⁷² (c) court of common pleas (1853 to 1873);¹⁷³ (d) superior court (1911 to

¹⁷⁰ Const. 1816, art. 5, sec. 12. Const. 1851, art. 7, sec. 14. *The Revised Statutes of the State of Indiana, 1838* (Indianapolis, 1838), ch. 7 (second act), sec. 1 (volume hereafter cited as Rev. Stat. 1838); ch. 58, secs. 1, 5, 14, 18, 19, 39. Rev. Stat. 1843, ch. 4, secs. 21-25; ch. 47, secs. 1-13; ch. 55, secs. 1, 5-8. 2 Rev. Stat. 1852, part 4, ch. 1, secs. 1-3; ch. 6, secs. 1-9. Acts 1913; Burns 5-101; Baldwin 1838. 2 Rev. Stat. 1852, Acts 1861; Burns 5-201, 5-208; Baldwin 1857, 1859. Acts 1881; Burns 5-1803; Baldwin 1874. Acts 1905; Burns 9-711, 9-715; Baldwin 2080, 2084.

¹⁷¹ Const. 1816, art. 5, secs. 1, 3. Const. 1851, art. 7, secs. 1, 8. Acts 1816-17, ch. 2, secs. 5, 6; ch. 3, sec. 2. Acts 1817-18 (general), ch. 2, sec. 5. *The Revised Laws of the State of Indiana, 1824* (Corydon, Indiana, 1824), ch. 24, secs. 4, 5 (Volume hereafter cited as Rev. Laws 1824). Rev. Laws 1831, ch. 22, sec. 3. Rev. Stat. 1838, ch. 23 (first act), sec. 3; ch. 88, sec. 1. *The Revised Statutes of the State of Indiana, 1843* (Indianapolis, 1843), ch. 38, secs. 7, 10-12 (Volume hereafter cited as Rev. Stat. 1843). 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, sec. 11. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

¹⁷² Dower proceedings, partition proceedings, and actions concerning heirs, devisees, executors, administrators, and guardians. Acts 1828-29, ch. 26, secs. 1, 2. Rev. Laws 1831, ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 24, secs. 1, 5, 6. Rev. Stat. 1843, ch. 39, secs. 1, 6-8.

The probate court was abolished in 1853, and its jurisdiction was transferred to the court of common pleas. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43. Jones v. Cavins (1853), 4 Ind. 305.

¹⁷³ 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 5, 7, 11, 12, 23. Jones v. Cavins (1853), 4 Ind. 305.

The court of common pleas had no jurisdiction of civil actions at law involving title to real estate, or to recover on bonds of state or county officers, or to recover damages for slander, libel, or breach of marriage contract, or to recover \$1,000 or more, or to recover \$50 or less. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, sec. 11.

1913);¹⁷⁴ *criminal cases*: (a) circuit court (1822 to date);¹⁷⁵ (b) court of common pleas (1853 to 1873);¹⁷⁶ *chancery cases*: (a) circuit court) (1822 to date);¹⁷⁷ (b) probate court (1838 to 1853);¹⁷⁸ (c) court of common pleas (1853 to 1873);¹⁷⁹ (d) superior court (1911 to 1913);¹⁸⁰ *probate matters, settlement of decedents' estates, and guardianships*: (a) circuit court (1822 to 1829, 1873 to date);¹⁸¹ (b) probate court (1829 to 1853);¹⁸² (c) court of

The court of common pleas was abolished in 1873, and its jurisdiction was transferred to the circuit court. Acts 1873; Burns 4-328; Baldwin 1417.

¹⁷⁴ Acts 1911, ch. 67, secs. 5, 12, 14-16, 19½.

The superior court was abolished in 1913, and its business was transferred to the circuit court, which has always had jurisdiction of all matters over which the superior court had jurisdiction. Acts 1913, ch. 2, secs. 3-6, 8.

¹⁷⁵ Const. 1816, art. 5, secs. 1, 3. Const. 1851, art. 7, secs. 1, 8. Acts 1816-17, ch. 2, secs. 5-7; ch. 3, sec. 2. Acts 1817-18 (general), ch. 2, secs. 5-7. Rev. Laws 1824, ch. 24, secs. 4-6. Rev. Laws 1831, ch. 22, secs. 3-5. Rev. Stat. 1838, ch. 23 (first act), secs. 3-5. Rev. Stat. 1843, ch. 38, secs. 9, 12, 13. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5. Acts 1867, ch. 16, sec. 1; ch. 26. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

¹⁷⁶ The court of common pleas had no original jurisdiction of offenses punishable by death. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, secs. 14-19. Jones v. Cavins (1853), 4 Ind. 305.

¹⁷⁷ Const. 1816, art. 5, secs. 1, 3. Const. 1851, art. 7, secs. 1, 8. Acts 1816-17, ch. 2, secs. 5, 6; ch. 3, sec. 2; ch. 4. Acts 1817-18 (general), ch. 2, sec. 5; ch. 3. Rev. Laws 1824, ch. 24, secs. 4, 5. Rev. Laws 1831, ch. 22, sec. 3. Rev. Stat. 1838, ch. 23 (first act), secs. 3, 12. Rev. Stat. 1843, ch. 38, secs. 8, 10-12; ch. 46, secs. 1-3. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

¹⁷⁸ Chancery suits in favor of or against heirs, devisees, legatees, executors, administrators, or guardians, and their sureties and representatives. Acts 1828-29, ch. 26, secs. 1, 2. Rev. Laws 1831, ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 24, secs. 1, 5. Rev. Stat. 1843, ch. 39, secs. 1, 6; ch. 46, secs. 1-3.

¹⁷⁹ 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, secs. 7, 11, 21. Jones v. Cavins (1853), 4 Ind. 305.

¹⁸⁰ Acts 1911, ch. 67, secs. 5, 12, 14-16, 19½. Acts 1913, ch. 2, secs. 3-6, 8.

¹⁸¹ Const. 1816, art. 5, secs. 1, 3. Const. 1851, art. 7, secs. 1, 8. Acts 1816-17, ch. 2, secs. 5, 6; ch. 3, secs. 2, 3. Acts 1817-18 (general), ch. 2, sec. 5, ch. 13. Rev. Laws 1824, ch. 24, secs. 4, 5; ch. 79. Acts 1828-29, ch. 26, secs. 1, 2. Rev. Laws 1831, ch. 22, sec. 3; ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 23 (first act), sec. 3; ch. 24, secs. 1, 4-6. Rev. Stat. 1843, ch. 38, secs. 6-13; ch. 39, secs. 1, 6-8. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, secs. 4, 5, 43. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1873; Burns 4-328; Baldwin 1417. Jones v. Cavins (1853), 4 Ind. 305.

¹⁸² Acts 1828-29, ch. 26, secs. 1, 2. Rev. Laws 1831, ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 24, secs. 1, 4-6. Rev. Stat. 1843, ch. 4, secs. 2, 9; ch. 39, secs. 1, 5-8. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43. Jones v. Cavins (1853), 4 Ind. 305.

common pleas (1853 to 1873);¹⁸³ *juvenile matters*: (a) circuit court (1867 to date);¹⁸⁴ (b) court of common pleas (1867 to 1873);¹⁸⁵ *conciliation*: court of conciliation (1853 to 1865);¹⁸⁶ *naturalization proceedings*: (a) circuit court 1822 to date);¹⁸⁷ (b) court of common pleas (1853 to 1873);¹⁸⁸ (c) superior court (1911 to 1913).¹⁸⁹

Decisions of the circuit court were reviewable by the Supreme Court of Indiana from 1822 until 1891, and since 1891 by the Supreme Court of Indiana or the Appellate Court of Indiana.¹⁹⁰ Decisions of the probate court (1829 to 1853) and the court of common pleas (1853 to 1873) were reviewable

¹⁸³ 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 4. Acts 1873; Burns 4-328; Baldwin 1417. Jones v. Cavins (1853), 4 Ind. 305.

¹⁸⁴ Acts 1867, ch. 62, secs. 10-19, 22, 23. Acts 1869 (Spec. Sess.), ch. 32, secs. 19-26, 35, 36. Acts 1872 (Spec. Sess.), ch. 30. Acts 1875, ch. 45. Acts 1879, ch. 58. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1927, 1929; Burns 4-603; Baldwin 1453. Acts 1903, 1913, 1931, 1935, 1937; Burns, 1939 suppl., 9-2801; Baldwin, 1937 suppl., 1759.

¹⁸⁵ 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 1. Acts 1867, ch. 62, secs. 10-19, 22, 23. Acts 1869 (Spec. Sess.), ch. 32, secs. 19-26, 35, 36. Acts 1872 (Spec. Sess.), ch. 30. Acts 1873; Burns 4-328; Baldwin 1417.

¹⁸⁶ Const. 1851 art. 7, sec. 19. 2 Rev. Stat. 1852, pt. 2, ch. 2. Jones v. Cavins (1853), 4 Ind. 305.

The court of conciliation was abolished in 1865. Acts 1865 (Spec. Sess.), ch. 57.

¹⁸⁷ *U. S. Statutes at Large*, 2:153, 155 (law of 1802); 4:69 (law of 1824). U. S. C., title 8, sec. 357 (laws of 1906, 1911, 1913). Const. 1816, art. 5, secs. 1, 3. Const. 1851, art. 7, secs. 1, 8. Acts 1816-17, ch. 2, secs. 5, 6; ch. 3, sec. 2. Acts 1817-18 (general), ch. 2, sec. 5. Rev. Laws 1824, ch. 24, secs. 4, 5. Rev. Laws 1831, ch. 22, sec. 3. Rev. Stat. 1838, ch. 23 (first act), sec. 3; ch. 88, sec. 1. Rev. Stat. 1843, ch. 38, secs. 7, 10-12. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, sec. 11. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

Because of the failure of the United States Department of Labor to furnish the necessary printed forms, this court is prevented from exercising its jurisdiction in naturalization proceedings.

¹⁸⁸ *U. S. Statutes at Large*, 2:153, 155 (law of 1802); 4:69 (law of 1824). U. S. C., title 8, sec. 357 (laws of 1906, 1911, 1913). 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, secs. 5, 7, 11, 12, 21, 23. Acts 1873; Burns 4-328; Baldwin 1417. Jones v. Cavins (1853), 4 Ind. 305.

¹⁸⁹ U. S. C., title 8, sec. 357 (laws of 1906, 1911, 1913). Acts 1911, ch. 67, secs. 5, 12, 14-16, 19 $\frac{1}{2}$. Acts 1913, ch. 2, secs. 3-6, 8.

¹⁹⁰ Acts 1816-17, ch. 1, secs. 7, 13. Acts 1817-18 (general), ch. 1, secs. 7, 13. Rev. Laws 1824, ch. 25, sec. 7. Rev. Laws 1831, ch. 24, sec. 7. Rev. Stat. 1838, ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70, 91. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 550. Acts 1891, ch. 37. Acts 1893, ch. 32. Acts 1897, ch. 9. Acts 1899, ch. 22. Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356.

by the Shelby Circuit Court or the Supreme Court of Indiana.¹⁹¹ Proceedings in the court of conciliation could not be appealed to another court.¹⁹² Decisions of the superior court (1911 to 1913) were reviewable by the Supreme Court of Indiana or the Appellate Court of Indiana.¹⁹³

The clerk of the circuit court, in person or by deputy, performs for the circuit court the numerous statutory and customary duties of clerk.¹⁹⁴ From 1829 until 1853 the clerk of the circuit court was ex officio clerk of the probate court (abolished in 1853);¹⁹⁵ from 1853 until 1873 he was ex officio clerk of the court of common pleas (abolished in 1873);¹⁹⁶ and from 1911 until 1913 he was ex officio clerk of the superior court (abolished in 1913).¹⁹⁷

The sheriff, in person or by deputy, attends the circuit court, preserves order therein, makes announcements for the court, calls witnesses to the courtroom, and executes the process of the court.¹⁹⁸ Constables perform similar duties for the justices of the peace.¹⁹⁹ Bailiffs (appointed by the judge as needed) wait on the grand juries and petit juries and preserve order during their proceedings and deliberations. If no bailiff is appointed, the sheriff or his deputy performs these duties.²⁰⁰ The coroner performs these duties of the

¹⁹¹ Acts 1828-29, ch. 26, sec. 4. Rev. Laws 1831, ch. 24, sec. 7; ch. 25, sec. 52. Rev. Stat. 1838, ch. 24, sec. 12; ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70; ch. 39, secs. 33-36. 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 13, 20; pt. 2, ch. 1, sec. 550.

¹⁹² Const. 1851, art. 7, sec. 19. 2 Rev. Stat. 1852, pt. 2, ch. 2, secs. 7, 12-14.

¹⁹³ Acts 1911, ch. 67, sec. 18. Acts 1913, ch. 2, secs. 3-6, 8. Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356.

¹⁹⁴ 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433. See the essay entitled "Clerk of the Circuit Court."

¹⁹⁵ Acts 1829-30, ch. 26, sec. 3. Rev. Laws 1831, ch. 25, sec. 7. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43.

¹⁹⁶ 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 25, 26. Acts 1873; Burns 4-328; Baldwin 1417.

¹⁹⁷ Acts 1911, ch. 67, sec. 8. Acts 1913, ch. 2, secs. 3-6, 8.

¹⁹⁸ 2 Rev. Stat. 1852; Burns 49-2802, 49-2803; Baldwin 5494, 5495. See the essay entitled "Sheriff."

¹⁹⁹ 2 Rev. Stat. 1852; Burns 5-601; Baldwin 1865. Acts 1905; Burns 9-710; Baldwin 2081. 2 Rev. Stat. 1852; Burns 49-3401, 49-3403, 49-3407; Baldwin 16116, 19119, 16122.

²⁰⁰ 1 Rev. Stat. 1852, ch. 3, sec. 4. 2 Rev. Stat. 1852, pt. 1, ch. 6, sec. 4. Acts 1879, ch. 51, sec. 26. Acts 1881 (Spec. Sess.), ch. 36, sec. 353; ch. 50, sec. 1. Acts 1895, ch. 145, sec. 122. Acts 1899, chs. 83, 112. Acts 1905, ch. 155. Acts 1915, ch. 172. Acts 1919, ch. 134. Acts 1921, ch. 149. Acts 1921, 1935; Burns, 1939 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1905; Burns 9-1501, 9-1810; Baldwin 2246, 2290. Adams v. State (1938), 214 Ind. 603, 17 N. E. (2d) 84. *Opinions of the Attorney General of Indiana, 1939*, p. 312.

sheriff in the event of the absence, personal interest, or incapacity of the sheriff, or vacancy of the office.²⁰¹ If the coroner is also absent or incapacitated, the judge appoints an elisor to perform these duties of the sheriff.²⁰² The prosecuting attorney acts as attorney for the state in criminal cases under state laws and as attorney for the county and state in certain civil cases.²⁰³ The probation officer (appointed by the judge for an indefinite term when needed) makes investigations and reports in criminal and juvenile matters as directed by the court, and supervises the conduct of persons on probation.²⁰⁴ The county director of public welfare performs duties of the probation officer when so directed by the court.²⁰⁵ The court reporter (appointed by the judge for an indefinite term) takes down in shorthand, and thereafter transcribes into typewriting, as directed by the court or the parties, the oral evidence, rulings, instructions to the jury, and other proceedings of the court.²⁰⁶ Two jury commissioners (annually appointed by the judge) prepare lists of names from which the grand juries and petit juries are drawn.²⁰⁷ The court page (appointed by the judge for an indefinite term when needed) serves as messenger for the judge and clerk, and performs minor duties assigned to him by the judge.²⁰⁸

Formerly a jury was used in coroner's inquests, but such juries were abolished in 1879. Under the present system, coroners act in a nonjudicial capacity when holding inquests.²⁰⁹

²⁰¹ 2 Rev. Stat. 1852; Burns 49-2902; Baldwin 5437.

²⁰² 2 Rev. Stat. 1852; Burns 4-322, 4-323; Baldwin 1411, 1412.

²⁰³ 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456. *Freed v. Martin* Circuit Court (1938), 214 Ind. 152, 14 N. E. (2d) 910; *State ex rel. Spencer v. Marion Criminal Court* (1938), 214 Ind. 551, 15 N. E. (2d) 1020. See the essay entitled "Prosecuting Attorney."

²⁰⁴ Acts 1903, ch. 23, sec. 2. Acts 1925, ch. 213. Acts 1927; Burns 9-2212, 9-2213; Baldwin 2363, 2364.

²⁰⁵ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1120; Baldwin, 1937 suppl., 14078-21. See the essay entitled "County Department of Public Welfare."

²⁰⁶ Acts 1881 (Spec. Sess.), ch. 89. Acts 1899, 1927; Burns 4-3501 to 4-3511; Baldwin 1288 to 1292, 1298, 1298-1, 1776, 1297-1, 1233, 1300. *Adams v. State* (1938), 214 Ind. 603, 17 N. E. (2d) 84.

²⁰⁷ Acts 1881 (Spec. Sess.), 1889, 1913; Burns 4-3301, 4-3306; Baldwin 1266, 1270. Acts 1881 (Spec. Sess.), 1929; Burns, 1939 suppl., 4-3304; Baldwin, 1939 suppl., 1267. *Foreman v. State* (1938), 214 Ind. 79, 14 N. E. (2d) 516.

²⁰⁸ *Dunn v. State ex rel. Corydon* (1933), 204 Ind. 390, 184 N. E. 535. *Opinions of the Attorney General of Indiana, 1929*, p. 312.

²⁰⁹ Acts 1807, ch. 8, secs. 2-10. Acts 1817-18 (general), ch. 20, secs. 1-9. Rev. Laws

LAW ENFORCEMENT

The constitution provides that all judicial officers shall be conservators of the peace in their respective jurisdictions,²¹⁰ and that all criminal prosecutions shall be carried on "in the name, and by the authority of, the state."²¹¹

Investigations of alleged violations of criminal law are conducted by the prosecuting attorney,²¹² the sheriff,²¹³ or the coroner,²¹⁴ co-operating with one another and with state and federal bureaus of law enforcement;²¹⁵ and the results of such investigations, if they point toward violations of the law, are presented to the grand jury by the prosecuting attorney.²¹⁶

The prosecuting attorney or his deputy may appear before the grand jury for the purpose of interrogating witnesses or giving information relative to any matter cognizable by it or giving requested advice on any legal matter, but he cannot be present during the deliberations of the grand jury.²¹⁷ The grand jury consists of six members,²¹⁸ at least five of whom must concur in the finding of an indictment. When an indictment is found by the grand jury, the foreman writes thereon the words "A true bill" and signs his name thereunder. The indictment is also signed by the prosecuting attorney.²¹⁹

1824, ch. 100, secs. 10-22. Rev. Stat. 1838, ch. 99 (1), secs. 1-23; ch. 99 (2), secs. 1-3. Rev. Stat. 1843, ch. 5, sec. 136; ch. 37, sec. 135; ch. 38, secs. 82-84; ch. 56, secs. 1-16. 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1939 suppl., 49-2904a; Baldwin, 1935 suppl., 5439a. Acts 1879; Burns 49-2905; Baldwin 5444. *Stults v. Board of County Comrs.* 168 Ind. 539, 81 N. E. 471.

²¹⁰ Const. 1816, art. 5, sec. 5. Const. 1851, art. 7, sec. 15.

²¹¹ Const. 1816, art. 5, sec. 11. Const. 1851, art. 7, sec. 18.

²¹² 2 Rev. Stat. 1852; Burns 49-2503; Baldwin 5459. *State ex rel. Spencer v. Marion*

Criminal Court (1938), 214 Ind. 551, 15 N. E. (2d) 1020.

²¹³ 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

²¹⁴ 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1939; Burns, 1939 suppl., 49-2904;

Baldwin, 1935 suppl., 5439.

²¹⁵ Acts 1927; Burns 9-2603 to 9-2610; Baldwin 15353 to 15355, 15357 to 15361.

²¹⁶ Acts 1905, 1927; Burns 9-806, 9-901, 9-908; Baldwin 2102, 2123, 2131.

²¹⁷ Acts 1905; Burns 9-826; Baldwin 2122.

²¹⁸ Acts 1905; Burns 9-801; Baldwin 2097. Const. 1851, art. 7, sec. 16; art. 15, sec. 4, concerning eligibility and oath of officers, do not apply to grand jurors. *Adams v. State* (1938), 214 Ind. 603, 17 N. E. (2d) 84.

²¹⁹ Acts 1905; Burns 9-901; Baldwin 2123. *Neal v. State* (1938), 214 Ind. 328, 14 N. E. (2d) 590, 15 N. E. (2d) 950.

Endorsement by prosecuting attorney. *Taylor v. State* (1888), 113 Ind. 471, 16 N. E. 183; *Robinson v. State* (1912), 177 Ind. 263, 97 N. E. 929; *Hamer v. State* (1928), 200 Ind. 403, 163 N. E. 91.

The prosecuting attorney conducts all prosecutions for felonies and misdemeanors charged in indictments returned by the grand jury.²²⁰ He may also prosecute on affidavit all criminal offenses under the state laws, other than treason and murder.²²¹

Actual enforcement of criminal law in the county is entrusted to the sheriff and the coroner, both offices having existed in Shelby County since its organization in 1822.²²² As law enforcement officers, they have identical powers and duties;²²³ in practice, however, the coroner performs few of these duties, except in the absence or incapacity of the sheriff. These officers make arrests in accordance with warrants issued by the circuit court or by the clerk of the circuit court, based on indictments returned by the grand jury or affidavits filed with the court.²²⁴ Writs of arrest may also be issued by the coroner, when the results of an inquest indicate that a felony was committed.²²⁵ Arrest without warrant can be made for a felony, where the arresting officer has reliable information of the commission of the crime by the person arrested; and arrest without warrant can be made for a felony or misdemeanor committed within view of the arresting officer.²²⁶ A warrant issued to the sheriff of the county in which the indictment was found or the affidavit was filed may be executed by him in any county of the state.²²⁷

²²⁰ 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460.

²²¹ Acts 1905, 1927; Burns 9-908; Baldwin 2131.

"Criminal prosecutions cannot be instituted by private individuals. They may be initiated by grand jury indictment. Formerly the only other method was on information. For this latter procedure the legislature substituted prosecutions by affidavit, approved by the prosecuting attorney." The court cannot compel the prosecuting attorney to approve such affidavit. *State ex rel. Freed v. Martin* Circuit Court (1938), 214 Ind. 152, 14 N. E. (2d) 910.

"In him [the prosecuting attorney] is vested discretionary judicial power to investigate and determine who shall be prosecuted and who shall not be prosecuted. Judges and courts cannot substitute their discretion for that of the prosecuting attorney." *State ex rel. Spencer v. Marion* Criminal Court (1938), 214 Ind. 551, 15 N. E. (2d) 1020.

²²² Const. 1816, art. 4, sec. 25. Const. 1851, art. 6, sec. 2. Acts 1821-22, ch. 31, secs. 1, 2.

²²³ 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

²²⁴ Acts 1881 (Spec. Sess.); Burns 3-302; Baldwin 725.

²²⁵ 2 Rev. Stat. 1852; Burns 49-2914; Baldwin 5448.

²²⁶ *Doering v. State* (1874), 49 Ind. 56, 19 Am. Rep. 669; *Hart v. State* (1924), 195 Ind.

384, 145 N. E. 449.

²²⁷ Acts 1905, 1937; Burns, 1939 suppl., 9-1001; Baldwin, 1937 suppl., 2134.

In the constitution there are many provisions for the benefit of persons accused of crime. Justice must be administered freely, and without purchase; speedily, and without delay.²²⁸ The accused has the right to a public trial in the county in which the offense was committed; the right to be heard by himself and counsel; the right to demand the nature and cause of the accusation against him, and to have a copy thereof; the right to meet the witnesses face to face; and the right to have compulsory process for obtaining witnesses in his favor.²²⁹ No person can be put in jeopardy twice for the same offense. In a criminal prosecution, no person can be compelled to testify against himself.²³⁰ A person arrested or confined in jail must not be treated with unnecessary rigor.²³¹ Excessive bail must not be required. Excessive fines must not be imposed. Cruel and unusual punishments must not be inflicted. All penalties must be proportioned to the nature of the offense.²³² Offenses other than murder and treason are always bailable by sufficient sureties. Murder and treason are bailable unless the proof of guilt is evident or the presumption of guilt is strong.²³³ The penal laws of Indiana are founded on the principles of reformation, and not of vindictive justice.²³⁴ In all criminal cases the jury has the right to determine both the law and the facts.²³⁵ The privilege of the writ of habeas corpus (to obtain release from unlawful detention) cannot be suspended, except in case of rebellion or invasion; and then only if the public safety demands such suspension.²³⁶ No conviction can "work corruption of blood or forfeiture of estate."²³⁷ The governor has power to grant reprieves, commutations, and pardons, and to remit fines and forfeitures.²³⁸

The county jail is maintained by the county, ²³⁹the

²²⁸ Const. 1851, art. 1, sec. 12.

²²⁹ *Ibid.*, sec. 13.

²³⁰ *Ibid.*, sec. 14.

²³¹ *Ibid.*, sec. 15.

²³² *Ibid.*, sec. 16.

²³³ *Ibid.*, sec. 17.

²³⁴ *Ibid.*, sec. 18.

²³⁵ *Ibid.*, sec. 19.

²³⁶ *Ibid.*, sec. 27.

²³⁷ *Ibid.*, sec. 30.

²³⁸ *Ibid.*, art. 5, sec. 17.

²³⁹ 1 Rev. Stat. 1852; Burns 13-1001; Baldwin 13448.

sheriff being responsible for its management.²⁴⁰ Inspection or investigation is made by the grand jury at the beginning of each regular session,²⁴¹ and by the board of commissioners every three months.²⁴²

FINANCE

APPROPRIATIONS AND BUDGETS

The power of making appropriations of money to be paid out of the county treasury has been vested exclusively in the county council since 1899.²⁴³ Before 1899 the board of commissioners performed the duties now performed by the county council.²⁴⁴

No money can be drawn from the county treasury not in pursuance of appropriation therefor,²⁴⁵ except in the following instances: (a) Money belonging to the state and commanded by law to be paid into the state treasury; (b) money belonging to any school fund; (c) money belonging to any fund of any township, town, or city, and commanded by law to be paid to such municipality; (d) money, due to any person, which has been paid into the county treasury pursuant to public improvement assessments on persons or property of the county in territory less than the whole county; (e) money, due to any person, which has been paid into the treasury for redemption from any tax or other sale; or money so due that has been paid in pursuant to authority of law as a tender or payment to such person; (f) taxes erroneously paid; (g) funds received from the state or federal governments for welfare assistance or public work projects;²⁴⁶ and (h) salaries fixed by law.²⁴⁷

Before the Thursday following the first Monday in August each year, the various officials of the county (including

²⁴⁰ 1 Rev. Stat. 1852; Burns 13-1004; Baldwin 13453.

²⁴¹ 1 Rev. Stat. 1852; Burns 13-1002; Baldwin 13449.

²⁴² Acts 1909; Burns 13-1008; Baldwin 13460.

²⁴³ Acts 1899; Burns 26-515; Baldwin 5379. "Requirements for Spending Public Money",

Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939 (Indianapolis, 1940), 8-14.

²⁴⁴ 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 13, 16, 17, 18, 21, 22.

²⁴⁵ Acts 1899; Burns 26-515; Baldwin 5379.

²⁴⁶ Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386.

²⁴⁷ *Blue v. State ex rel. Powell* (1936), 210 Ind. 486, 1 N. E. (2d) 122.

Salaries fixed by judge of circuit court for bailiff and page. *Opinions of the Attorney General of Indiana, 1939, p. 312.*

township trustees or assessors) submit to the auditor estimates of expenditures for the ensuing calendar year and estimates of probable revenue to be received from the state during that period. The estimates are kept on file in the auditor's office, subject to inspection by any taxpayer of the county. The auditor publishes notice of the aggregate amount of each of such estimates, and prepares an ordinance making an appropriation by items for the ensuing calendar year for the various purposes for which all of the estimates are required. At the annual meeting of the county council on the first Tuesday after the first Monday in September, the auditor submits all of the estimates to the county council and makes recommendations with reference thereto. The council, at that meeting, considers the estimates and the proposed ordinance, and makes such changes as deemed necessary. A three-fourths vote is required to make appropriation for any item not contained in any estimate or for a greater amount than that named in any item of any estimate. The ordinance making the appropriation for the ensuing year is adopted after being read on at least two separate days. This appropriation is called the annual county budget, and the estimates of expenditures and revenue are called budget estimates.²⁴⁸

If an emergency arising after the adjournment of the annual meeting requires funds supplementary to those originally included in the annual budget, additional appropriations may be made in an ordinance passed by a two-thirds vote of all the members of the council at a special meeting, after estimates are prepared and submitted in the manner required for annual estimates. If the aggregate amount of the requested appropriation exceeds \$15,000, the ordinance must be read on

²⁴⁸ Acts 1899; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331, 64-1339; Baldwin, 1935 suppl., 15735, 15737-1.

Appropriations can be made only by the passage of ordinances. *State ex rel. Davis v. Board of County Comrs.* (1905), 165 Ind. 262, 74 N. E. 1091.

The statutory provision requiring an ordinance for an appropriation to be read on two separate days is mandatory, and on failure to comply therewith the ordinance is invalid. *Van Der Veer v. State ex rel. Herron* (1929), 97 Ind. App. 1, 165 N. E. 265.

The surveyor's budget estimates of costs of maintenance of roads is under the control of the board of commissioners, and may be changed at any time by the board without the approval of the surveyor or the county highway supervisor. *Bateman v. State* (1938), 214 Ind. 138, 14 N. E. (2d) 1007.

two separate days before passage.²⁴⁹ Such additional appropriations must be approved by the state board of tax commissioners.²⁵⁰

When any item of appropriation remains unexpended at the end of the calendar year for which it was appropriated, the amount thereof reverts to the general fund of the county, and no warrant can be drawn thereon. However, time for withdrawal is extended where payment was withheld during such year because of an injunction which was later dissolved.²⁵¹ It is unlawful to overdraw the amount of any item of appropriation or to use the funds of any item for an unauthorized purpose.²⁵²

No county official or court has power to bind the county by any contract, express or implied, to any extent beyond the amount of money at the time already appropriated by ordinance for the purpose of the obligation attempted to be incurred.²⁵³

TAXATION

The power of taxation is inherent in the state, and is a legislative power limited only by the provisions of the constitution.²⁵⁴ The constitution provides that "The General

²⁴⁹ Acts 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385.

The council's determination of emergency is not conclusive on the courts. State *ex rel.* Kautz v. Board of County Comrs. (1933), 204 Ind. 484, 184 N. E. 780.

The words "emergency growing out of a flood, fire, pestilence, war, or other major disaster" are used in Acts 1937; Burns, 1939 suppl., 64-312; Baldwin, 1937 suppl., 15897-6.

Provisions concerning township poor relief and public welfare services. Acts 1935; Burns, 1939 suppl., 52-174; Baldwin, 1935 suppl., 13320-31. Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1303; Baldwin, 1937 suppl., 14078-100.

²⁵⁰ Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

²⁵¹ Acts 1899, 1903, 1905; Burns 26-524; Baldwin 5388.

²⁵² Acts 1899; Burns 26-523; Baldwin 5387. Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386.

²⁵³ Acts 1899; Burns 26-525, 26-527; Baldwin 5389, 5391. *Opinions of the Attorney General of Indiana, 1939, p. 312.*

But lack of appropriation does not prevent entry of a judgment binding the county, where the court has jurisdiction of the parties and subject matter of the action. Acts 1899; Burns 26-527; Baldwin 5391. Board of County Comrs. v. McGregor (1909), 171 Ind. 634, 87 N. E. 1.

²⁵⁴ State *ex rel.* Goodman v. Halter (1897), 149 Ind. 292, 47 N. E. 665; Dunn v. Indianapolis (1935), 208 Ind. 630, 196 N. E. 528; Miles v. Department of Treasury (1935), 209 Ind. 172, 199 N. E. 372. "Taxation in Indiana the Last Forty-Eight Years", *Thirty-Eighth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, January 9, 10, 11, 1939 (1939), 75-89.*

Assembly shall provide, by law, for a uniform and equal rate of assessment and taxation; and shall prescribe such regulations as shall secure a just valuation for taxation of all property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious, or charitable purposes, as may be specially exempted by law."²⁵⁵ This section applies only to a general assessment on property according to its value, and does not apply to excise taxes.²⁵⁶ Exemptions are discussed hereinafter.

In Indiana there are poll taxes, excise taxes, and property taxes. A poll tax is a tax assessed on the person. An excise tax is a tax on privileges, and includes taxes on occupations, inheritance, sale of gasoline, and the like. Laws imposing excise taxes are sometimes called "internal revenue laws." The property tax (also known as ad valorem tax) is the tax on real and personal property based on value, and it constitutes the largest part of the county revenue. Property may be subject to an excise tax and also a property tax. Excise taxes administered by county officers are discussed hereinafter under the heading "Excise Taxes and Licensing."

In each township having a population not exceeding 5,000 (all townships except Addison), the office of township assessor has been abolished, and the duties of such office are performed by the township trustee. Reference herein to the township assessor includes the township trustee performing the duties prescribed by statutes for township assessors.²⁵⁷

A poll tax is assessed on every male inhabitant of the state between the ages of 21 and 50 years, and every such person must be listed for his poll tax in the township, town, or city of his residence.²⁵⁸ Poll tax exemptions are allowed to volunteer firemen²⁵⁹ and former soldiers and sailors receiving service-connected disability compensation.²⁶⁰ Before

²⁵⁵ Const. 1851, art. 10, sec. 1.

²⁵⁶ State Bd. of Tax Comrs. v. Jackson (1931), 283 U. S. 527, 75 L. Ed. 1248, 51 Sup. Ct. 540; Miles v. Department of Treasury (1935), 209 Ind. 172, 199 N. E. 372; Davis v. Sexton (1936), 210 Ind. 138, 200 N. E. 233.

²⁵⁷ Acts 1933; Burns 64-1031; Baldwin 15664.

Vacancy caused by death of township assessor. *Opinions of the Attorney General of Indiana, 1939*, p. 243.

²⁵⁸ Acts 1919; Burns 64-102; Baldwin 15515.

²⁵⁹ 1 Rev. Stat. 1852, ch. 41, sec. 3. Acts 1933, ch. 91, sec. 1. Acts 1935, ch. 302, sec. 1. Acts 1939; Burns, 1939 suppl., 48-6161; Baldwin, 1939 suppl., 12653-1.

²⁶⁰ Acts 1923; Burns 45-1210; Baldwin 10917. Acts 1919, 1920 (Spec. Sess.), 1921, 1923, 1937; Burns, 1939 suppl., 64-201, 64-220; Baldwin, 1937 suppl., 15518, 15515-1.

1919 the board of commissioners could grant poll tax exemptions because of inability to pay.²⁶¹ The auditor certifies to the city officials the number of taxable polls therein,²⁶² and adds omitted polls to the tax duplicate.²⁶³ Poll taxes are collected by the county treasurer. A poll tax receipt must be presented to any licensing authority to obtain an occupation license required by state law, a motor vehicle operator's or chauffeur's license, a motor vehicle license, or a certificate of title for a motor vehicle.²⁶⁴

The property tax laws are administered by the township assessors, county assessor, auditor, treasurer, board of review, county council, and board of tax adjustment, under the supervision of the state board of tax commissioners.²⁶⁵ The state board prescribes rules and forms for the subordinate tax officials and instructs them concerning their duties.²⁶⁶ It makes original assessments of certain classes of property of railroads, telephone companies, and other public utilities,²⁶⁷

Before 1937 exemption was granted to all militiamen, soldiers, and sailors in active service. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-201; Baldwin 15518.

²⁶¹ 1 Rev. Stat. 1852, ch. 20, sec. 30 (repealed by Acts 1919, ch. 59, sec. 2). *Opinions of the Attorney General of Indiana, 1936*, p. 83.

²⁶² Acts 1905, 1911; Burns 48-6708; Baldwin 11516.

²⁶³ Acts 1919; Burns 64-2102; Baldwin 15803.

²⁶⁴ Acts 1931; Burns 42-102 to 42-105; Baldwin 10499 to 10501, 10503.

²⁶⁵ Interview of May 18, 1939 with Philip Zoercher, chairman of the state board of tax commissioners. See the authorities cited hereinafter under specific text statements.

²⁶⁶ Acts 1919, 1921; Burns 64-1309, 64-2803, 64-2806; Baldwin 15713, 15866, 15869. "Revised Forms", *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* pp. 22-30, 53, 54, 102, 103, 123-139.

²⁶⁷ The state board of tax commissioners assesses property of the following companies: Railroad, telephone, express, telegraph, sleeping car, pipe line, car equipment (tank, refrigerator, freight), and "public utility" (heat, light, water, power, elevator, and warehouse service).

In case of railroads, the state board assesses the railroad track and the rolling stock. Local authorities assess personal property that has a fixed location and also real estate outside of the property denominated "railroad track."

The state board assesses the personal and intangible properties of the other specified companies. Their other property is assessed by local authorities.

Car equipment companies pay a tax of two percent on their assessed value direct to the state department of treasury.

Except as to the car equipment companies, the assessment of the state board is certified to the county auditor who apportions it among the several townships, towns, and cities entitled to a levy thereon, and places such assessments on the tax duplicate; and thereafter the tax is collected by the county treasurer. Acts 1919, 1921, 1923, 1932 (Spec. Sess.); Burns 64-703 to 64-740; Baldwin 15617 to 15654. "State Board Assessments", *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (1940), 14-21.

and supervises and reviews assessments, appropriations, and levies of the subordinate tax officials.²⁶⁸

The principal steps in property taxation, stated in their chronological order, are assessment, budget, levy, and collection. The assessment is the determination of what property is taxable and the value thereof. The budget is the appropriation of money for expenditures for the next calendar year. The levy is the charging of a certain amount of taxes against each \$100 of assessed valuation to raise the money required for the budget. The collection involves the voluntary payment and also proceedings to compel payment.²⁶⁹

Assessment of real and personal property for county purposes also serves as the assessment for state, township, city, and town purposes.²⁷⁰ Personal property is assessed each year as of the first day of March.²⁷¹ Though real estate is not re-assessed every year (the old assessment remaining in effect until changed), the lien for taxes thereon dates from March 1.²⁷² All taxable property, real and personal, is required to be assessed at the true cash value thereof.²⁷³ Since personal property and real property are assessed differently, they will be discussed separately, beginning with personal property.

Personal property must be listed for taxation between March 1 and May 15 each year, with reference to the quantity and quality owned on March 1.²⁷⁴ Each township assessor calls on the taxpayers and furnishes them with blanks for listing personal property. The taxpayer must list, under oath, all personal property held, possessed, or controlled by him, and state what he deems the true cash value of each item. Ordinarily the valuation of the taxpayer is accepted if it is in reason, but the assessor may fix a different

²⁶⁸ Acts 1919, 1920 (Spec. Sess.), 1921, 1923, 1925, 1927, 1931; Burns 64-1301 to 64-1358; Baldwin 15705 to 15737, 12490 to 12492, 12522, 12527. Acts 1935; Burns, 1939 suppl., 64-1313, 64-1321, 64-1324, 64-1325, 64-1331; Baldwin, 1935 suppl., 15717, 15725, 15728, 15729, 15735.

²⁶⁹ Interview of May 18, 1939 with Philip Zoercher, chairman of the state board of tax commissioners.

²⁷⁰ Acts 1919; Burns 64-2814; Baldwin 15877.

²⁷¹ Acts 1919; Burns 64-103, 64-401, 64-403; Baldwin 15516, 15524, 15526.

²⁷² Acts 1919, 1920 (Spec. Sess.); Burns 61-2825; Baldwin 15886.

²⁷³ Acts 1919; Burns 61-103, 64-1009; Baldwin 15516, 15675. Acts 1937; Burns, 1939 suppl. 64-1019b; Baldwin, 1937 suppl., 15685-2. "Uniformity of Assessments". *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana*, December 20, 21, 22, 1939 (1940), 54-85.

²⁷⁴ Acts 1919; Burns 64-401; Baldwin 15524.

valuation. If no list is given by the taxpayer or if the assessor doubts the correctness of the list, he may examine, under oath, the taxpayer and other persons concerning such property, and set down and assess to such person such amount of personal property as he may deem just.²⁷⁵ If the taxpayer refuses to make a return or oath required by law, the assessor makes a note of such refusal, and the auditor adds 50 percent to the valuation returned by the assessor.²⁷⁶

After giving notice to the taxpayer, omitted personal property may be assessed by the township assessor,²⁷⁷ county assessor,²⁷⁸ auditor,²⁷⁹ or board of review;²⁸⁰ and appeal from such assessment may be taken to the circuit court, on the question of whether such omitted property is taxable.²⁸¹

The county assessor advises and instructs all township assessors in the county; and for this purpose visits each township assessor during March and April each year. The county assessor endeavors to cause uniformity and equality of assessment by the several township assessors. The county assessor and the township assessors may be removed by the state board of tax commissioners for incompetency or neglect of duty.²⁸²

The board of review, after giving two weeks' notice, meets on the first Monday in June each year. The board reviews the assessment of personal property, hears complaints of owners, reduces or increases valuations, equalizes valuations, corrects and completes the tax lists, and assesses omitted property. Notice must be given by the auditor to the owner before the board of review assesses omitted property or raises valuations.²⁸³ Any person dissatisfied with the decision of the board of review may appeal to the state

²⁷⁵ Acts 1919; Burns 64-601 to 64-604, 64-610; Baldwin 15569 to 15572, 15578. "Revised Forms", *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (1940), 22-30, 53, 54, 102, 103, 123-129.

²⁷⁶ Acts 1919; Burns 64-610; Baldwin 15578.

²⁷⁷ Acts 1919; Burns 64-1025; Baldwin 15692.

²⁷⁸ Acts 1919; Burns 64-1102; Baldwin 15698.

²⁷⁹ Acts 1919; Burns 64-1402, 64-2102; Baldwin 15739, 15803.

²⁸⁰ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

²⁸¹ Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

This statement of the scope of the appeal was suggested by Philip Zoercher, chairman of the state board of tax commissioners.

²⁸² Acts 1919, 1921; Burns 64-1001, 64-1102; Baldwin 15666, 15698.

Death of township assessor. *Opinions of the Attorney General of Indiana, 1939*, p. 243.

²⁸³ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

board of tax commissioners. Hearings on such appeals are, when possible, held in the auditor's office in the county from which the appeal was taken. The amount fixed by the state board is the final assessment of such property.²⁸⁴

The county auditor, on or before March 1 each year, makes out and delivers to the township assessors lists of lands entered on the tax duplicates of the previous year, with notations thereon showing all transfers made subsequent to the duplicate and all new entries of land not previously entered for taxation.²⁸⁵

The auditor makes plats of the several townships showing ownership, improvements, and assessed valuation of the parcels of real estate therein. The township assessors write on such plats the ownership and value of each plot of ground and the improvements thereon, and the plat is kept up with all current transactions and transfers.²⁸⁶ For taxation purposes, the auditor keeps a transfer book, arranged by townships, cities, and towns, showing description of all lands conveyed by deed or partition, names of parties, and post-office addresses of grantees.²⁸⁷ On the death of a landowner, the heir or devisee may have the auditor make an entry on the tax duplicate to show the change of ownership.²⁸⁸

Each township assessor is required to call on every person residing in his township for a list of lands owned by such person in such township subject to taxation. The improvements on such lands should be described, and any change of improvements since March 1 of the previous year should be stated. If such person fails to furnish such list within five days after being called on, as notified to do, the assessor may make the list according to the best information he can obtain, and the auditor must add 25 percent to the assessor's valuation of such person's lands or improvements which were not assessed for taxation the previous year.²⁸⁹ On or before the first Monday in June in each year, the assessor

²⁸⁴ Acts 1919, 1935; Burns, 1939 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State board of tax commissioners, tax rule 6.

²⁸⁵ Acts 1919, 1937; Burns, 1939 suppl., 64-1007; Baldwin, 1937 suppl., 15672.

²⁸⁶ *Ibid.*

²⁸⁷ Acts 1919; Burns 64-1409; Baldwin 15746.

²⁸⁸ Acts 1921; Burns 64-519; Baldwin 14777.

²⁸⁹ Acts 1919; Burns 64-1008, 64-1009, 64-1013, 64-1015; Baldwin 15674, 15675, 15679, 15681.

"Revised Forms", *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana*, December 20, 21, 22, 1939 (1940), 22-30, 53, 54, 102, 103, 123-139.

must make out and deliver to the auditor, in a book furnished by him, a return of the real estate so listed.²⁹⁰

Re-assessment of lots, lands, or improvements can be made only when authorized by the state board of tax commissioners.²⁹¹ If improvements are destroyed or removed, or if the value of improvements is reduced by substantial changes, the taxpayer should apply to the state board for an order for re-assessment, since the local officials cannot remove improvements from the tax lists and books or reduce the assessment of improvements without such order for re-assessment. The assessments mentioned in the next paragraph below may be made without an order from the state board. The last general re-assessment of real estate in Indiana was made in 1932.²⁹²

Each person authorized to make assessment valuations of real estate for taxation is charged with the duty of correcting tax book errors as to description of property and name of owner. A notation is made showing any change of ownership since the last assessment. Each township assessor, after giving notice to the occupant of the property or the resident of the county claiming ownership, each year assesses any lots, lands, or improvements found omitted, and makes a return thereof to the auditor as of the year when the same should have been first assessed.²⁹³ The county assessor,²⁹⁴ auditor,²⁹⁵ and board of review²⁹⁶ also have power to assess such omitted property after giving notice. The auditor makes assessment of any newly platted additions to any city or town.²⁹⁷ Such assessments by the township assessors, county assessor, and auditor may be reviewed and revised at the next meeting of the board of review.²⁹⁸ The decision of the board

²⁹⁰ Acts 1919; Burns 64-1016; Baldwin 15682.

²⁹¹ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019; Baldwin, 1937 suppl., 15685. "Uniformity of Assessments", *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (1940), 54-85.

²⁹² Interview of March 29, 1940 with Philip Zoercher, chairman of the state board of tax commissioners.

²⁹³ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Acts 1919; Burns 64-1025; Baldwin 15692.

²⁹⁴ Acts 1919; Burns 64-1102; Baldwin 15698.

²⁹⁵ Acts 1919; Burns 64-1402, 64-2102; Baldwin 15739, 15803.

²⁹⁶ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

²⁹⁷ Acts 1919; Burns 64-1027; Baldwin 15691.

²⁹⁸ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1205; Baldwin 15700, 15704.

of review in reviewing such assessment or in making an original assessment of omitted lots, lands, or improvements may be reviewed by the state board of tax commissioners in the manner provided for review of decisions concerning personal property, discussed above.²⁹⁹ From any assessment of omitted lots, lands, or improvements, appeal may be taken to the circuit court on the question of such property's taxability.³⁰⁰

In case of flood, fire, or other disaster in which a substantial amount of property in any township has been partially or totally destroyed, the state board of tax commissioners must order a survey, determine the locality in which the property has been partially or totally destroyed, and order re-assessment of all or part of the property in such township.³⁰¹

The state board, after March 31 of a year in which a general election is not held, may, without petition of taxpayers, order a hearing on the necessity of re-assessment for the whole state or for any of the counties or townships thereof. A hearing is held, after notice thereof, in each county in which the affected property is located. The board may then order re-assessment.³⁰²

Any person may, before March 31 in any year, file with the state board of tax commissioners a petition for re-assessment of his real estate. At the hearing, the petitioner must show cause for re-assessment. Other taxpayers may be heard in opposition. The board may then order the requested re-assessment. This is the only method for obtaining re-assessment of particular real estate.³⁰³

A petition for re-assessment of all real estate in a township, signed by the necessary percentage—it varies in different townships—of the resident owners of taxable real estate of such township and bearing a certificate of the audi-

²⁹⁹ Acts 1919, 1935; Burns, 1939 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State board of tax commissioners, tax rule 6.

³⁰⁰ Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

This statement of the scope of the appeal was suggested by Philip Zoercher, chairman of the state board of tax commissioners.

³⁰¹ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019(c); Baldwin, 1937 suppl., 15685(c).

³⁰² Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019(b); Baldwin, 1937 suppl., 15685(b).

³⁰³ Acts 1915, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019(d); Baldwin, 1937 suppl., 15685(d).

tor as to the required number of signers, may be filed with the state board of tax commissioners before March 31, in any year in which there is no general election of state, county, or township officials. If it appears to the board that the petition is in proper order and that the present valuation is inequitable, the board will order re-assessment of all or part of the real estate in the township.³⁰⁴

Within 10 days after the valuation of real or personal property is determined by the board of review or state board of tax commissioners, the owner may appeal to the circuit court on questions of law concerning such valuation.³⁰⁵

There are a great many statutory provisions concerning exemptions from property taxes, and space will permit only a brief discussion thereof. The following property is exempt from property taxes: Property of the United States and the State of Indiana; property of any county, city, town, or township—except municipally owned utilities; lands granted for the use of the common schools; real and personal property (including dormitories) actually used by schools and colleges; property used (or devised to be used) exclusively for educational, literary, scientific, religious, or charitable purposes; property of agricultural associations, cemetery associations, and soldiers' and sailors' memorial associations; property of the American Legion, Young Men's Christian Association, Knights of Columbus, and similar associations; property of fraternal beneficiary associations, college fraternities, and college sororities; historical sites maintained for nonprofit public exhibition; property used exclusively for the purpose of a public library; property owned and used exclusively by the Indiana National Guard or other military organization for armory purposes; bonds and notes issued by any municipality or taxing district of the state for certain purposes; and certain annuities payable by religious or charitable organizations.³⁰⁶ To obtain such exemptions, sworn statements

³⁰⁴ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019(a); Baldwin, 1937 suppl., 15685(a).

³⁰⁵ Acts 1927; Burns 64-1020; Baldwin 15686.

³⁰⁶ Acts 1919, 1920 (Spec. Sess.), 1921, 1923, 1937; Burns, 1939 suppl., 64-201; Baldwin, 1937 suppl., 15518.

Property of cities and towns. Acts 1939; Burns, 1939 suppl., 64-221; Baldwin, 1939 suppl., 15518-5. *Opinions of the Attorney General of Indiana, 1939*, p. 62.

Farms operated by colleges and hospitals. *Opinions of the Attorney General of Indiana, 1939*, p. 146.

Bridge across Ohio River. *Ibid.*, p. 294.

must be filed with the auditor on or before the first day of March each year.⁸⁰⁷

Any Indiana resident owning real estate encumbered by a mortgage may have the amount of the mortgage existing and unpaid on the first day of March, not exceeding \$1,000 and not exceeding one-half of the assessed valuation, deducted from the assessed valuation for that year, by filing with the auditor between the first day of March and the first Monday in May a sworn statement in the form required by law.⁸⁰⁸

The county auditor, not later than September 1 each year, apportions the final assessment of real and personal property among the several taxing units of the county and certifies the same to the county, townships, cities, and towns for the purpose of making tax levies based thereon.⁸⁰⁹

The county council, at its annual meeting in August, adopts a budget, establishes the tax rate, and makes tax levies for the succeeding calendar year. The auditor then schedules the rates for the several municipal corporations in the county, verifies the figures and calculations, and reports the levies to the state board of tax commissioners.⁸¹⁰

Appeal from the action of the county council may be taken to the state board of tax commissioners. That board, after hearing the objections, may affirm or decrease the total tax levy on any item thereof. The decision of the board, which is final and conclusive "with respect to said levies and such parts thereof as may have been in question", is certified to the auditor, and the auditor certifies it to the taxing units interested therein. When the state board orders a reduction in the levy, it indicates the items in the budget affected by

Totally disabled soldiers, sailors, marines, and nurses, and the widows of such soldiers, sailors, or marines. Acts 1927; Burns 64-205 to 64-207; Baldwin 10986 to 10988.

⁸⁰⁷ Acts 1937; Burns, 1939 suppl., 64-213; Baldwin, 1937 suppl., 15518-2.

⁸⁰⁸ Acts 1919, 1939; Burns, 1939 suppl., 64-209 to 64-211; Baldwin, 1939 suppl., 15565 to 15567. *Opinions of the Attorney General of Indiana, 1939*, p. 123. "Mortgage Deductions", *Thirty-Eighth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, January 9, 10, 11, 1939* (1939), 64-74.

Under the 1919 act, the owner was not required to be a resident of Indiana in order to obtain a mortgage exemption. Acts 1919; Burns 64-209; Baldwin 15565.

⁸⁰⁹ Acts 1919, 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733.

⁸¹⁰ Acts 1889; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733. Acts 1919; Burns 64-1330; Baldwin 15734. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331, 64-1339; Baldwin, 1935 suppl., 15735, 15737-1.

such reduction; and this limits the expenditures for the year, except in cases of extraordinary emergency.³¹¹

The laws discussed in the next four paragraphs do not apply to levies and rates to meet the following liabilities: (a) Funding, refunding, or judgment funding obligations; (b) "outstanding obligations"; (c) judgments; (d) obligations issued to meet emergency growing out of flood, fire, pestilence, war, or other major disaster; (e) obligations issued on petition under this act; (f) requirements of the county welfare fund for public welfare services. It is the duty of the county council to levy an amount sufficient to meet such purposes, regardless of any statutory provisions to the contrary.³¹²

Except on authorization of the state board of tax commissioners, the total tax rate for all purposes cannot exceed \$1.25 on each \$100 of taxable property outside incorporated cities and towns or \$2 on each \$100 of taxable property inside incorporated cities and towns.³¹³

At least two days before the second Monday in September, each municipal corporation³¹⁴ of the county files with the county auditor a statement of the tax levies and rates for the ensuing year, fixed by such municipal corporation, and at least two copies of the budgets on which such levies are based.³¹⁵ The board of tax adjustment meets on the second Monday of September each year. At that meeting the auditor lays before the board these budgets, tax levies, and rates.³¹⁶ It is the duty of the board of tax adjustment to examine, revise, change, or reduce (but not increase) any budget, tax levy, or rate, and to hold such budget within the total amount of revenue to be raised therefor from any source whatever. Any changes in budgets must be with respect to the total amounts budgeted for each office, and not the detailed items included in such budgeted classifications. While the board of tax adjustment endeavors to keep the rates within the limits above stated, if it decides that such rates are inadequate, it

³¹¹ Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

³¹² Acts 1937; Burns, 1939 suppl., 64-312, 64-313; Baldwin, 1937 suppl., 15897-6, 15897-7.

³¹³ Acts 1937; Burns, 1939 suppl., 64-309; Baldwin, 1937 suppl., 15897-3.

³¹⁴ The term "municipal corporation" includes counties, townships, cities, towns, school districts, sanitary districts, park districts, and all taxing units within the state. Acts 1933; Burns 64-302; Baldwin 15893.

³¹⁵ Acts 1937; Burns, 1939 suppl., 64-311; Baldwin, 1937 suppl., 15897-5.

³¹⁶ Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

certifies to the state board of tax commissioners its analysis and recommendations together with such data and facts as may be deemed essential to review. The state board (proceeding according to the provisions governing appeals) then reviews the budgets and may authorize rates beyond the said limits.³¹⁷

If the board of tax adjustment does not complete its duties before October 2, or fails to reduce the aggregate amount of the levies and rates to the statutory limits aforesaid (\$2 per \$100 in cities and towns and \$1.25 per \$100 in other places), then the auditor calculates and fixes the rates, so that the total tax rate on property within any municipal corporation does not exceed said limits, and certifies his action to each municipal corporation before October 6. Before October 16, appeal to the state board of tax commissioners may be taken by the municipal corporation or by 10 or more taxpayers. On the hearing of such appeals, the state board "may revise, change, or increase" the levy and rate in respect to total amounts budgeted by each office or department, and not as to detailed items. The levy and rate must be kept within the limit originally fixed by the municipal corporation. The state board certifies its decision to the county auditor before December 1, if possible. The budget, levy, and rate thereby fixed are final.³¹⁸

After the budget, levy, and rate for each municipal corporation have been finally fixed and determined, as aforesaid, the appropriating body of each municipal corporation allocates the funds to be derived from such levy in such manner that the expenditures for the ensuing year will remain within the limitations as finally fixed in the manner stated in the two preceding paragraphs.³¹⁹

If the county council determines that an emergency exists requiring expenditures for the current year not authorized by the budget as originally established, or as modified by the state board of tax commissioners, the council may make an additional appropriation and levy. The auditor then certifies the matter to the state board, and its decision thereon is final and conclusive.³²⁰

³¹⁷ Acts 1937; Burns, 1939 suppl., 64-311; Baldwin, 1937 suppl., 15897-5.

³¹⁸ Acts 1937; Burns, 1939 suppl., 64-311, 64-314; Baldwin, 1937 suppl., 15897-5, 15897-8.

³¹⁹ Acts 1937; Burns, 1939 suppl., 64-315; Baldwin, 1937 suppl., 15897-9.

³²⁰ Acts 1899, 1907, 1913, 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385.

Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

The auditor, between the first Monday in July and the last day of December, makes out and delivers to the treasurer a roll of taxes known and designated as the "tax duplicate." This contains several columns, and shows the names of taxpayers in alphabetical order, lands and improvements, mortgage deductions, corporate stock, personal property, valuations, poll tax, assessments of omitted property, land transfers since the last assessment, and all alterations in the assessment lists made by the board of review or the state board of tax commissioners. He numbers each original township, city, and town in regular progression as the same shall stand entered on the duplicate, retaining the same number from year to year. On or before January 1 the county auditor delivers to the auditor of state a complete abstract of all property listed in each township, city, and town, showing valuations, mortgage deductions, number of polls, the amount of each kind of tax, the aggregate thereof in the county, and the rate of each kind assessed. A copy of the abstract is delivered to the treasurer, and another copy is kept by the county auditor.³²¹

Property taxes for state, county, township, city, and town purposes are payable to the county treasurer in two equal installments on or before the first Monday in May and the first Monday in November, respectively, in the year following the year for which the property was assessed. If any installment is not paid when it becomes due, such installment becomes delinquent, and a penalty of eight percent of such installment is added. An additional penalty of five percent is added to any tax for each year the tax remains unpaid after the first Monday in November of the year in which the delinquency accrued.³²²

It is the duty of the county treasurer to collect all such property taxes after they become delinquent. He may levy on personal property at any time after the tax becomes delinquent, or before delinquency if he has good reason to believe the taxpayer is about to leave the county without payment, and sell the same after 10 days' notice of the time and place of sale. Suit in the name of the treasurer may be brought by the prosecuting attorney to collect taxes. Real estate may be sold at a tax sale, on the second Monday in April, after advertisement, but not until 15 months have

³²¹ Acts 1919; Burns 64-1403, 64-1408; Baldwin 15740, 15745.

³²² Acts 1919; Burns 64-1502; Baldwin 15748. Acts 1932 (Spec. Sess.); Burns 64-1508; Baldwin 15751. Acts 1935; Burns, 1939 suppl., 64-1542, 64-1544; Baldwin, 1935 suppl., 15765-1, 15765-3.

elapsed since delinquency. The purchaser of real estate at a tax sale receives from the auditor a tax certificate which describes the realty, states the amount paid by the purchaser, and states when a tax deed may be obtained by him.³²³

The owner or occupant of any land sold for taxes, or any other person having an interest therein, may redeem the same at any time within two years after the sale and at any time thereafter before a tax deed is issued. Such deed may be issued at any time between two and four years after the tax sale. The redeemer must pay to the treasurer the amount of the taxes and penalties for which the property was sold (as shown in the tax certificate), plus a penalty based on a percentage of such amount (10 percent if redeemed within six months after the sale, 15 percent if redeemed six months to one year after the sale, or 25 percent if redeemed more than one year after the sale), plus the cost of the tax sale, plus any subsequent taxes paid by the certificate holder, plus interest on such subsequent taxes at the rate of six percent per annum. No interest on such subsequent taxes can accrue later than two and one-half years after the tax sale. The money so received by the treasurer is paid by him to the holder of the redeemed tax certificate.³²⁴

Ordinarily real estate cannot be sold at a tax sale for less than the amount of the taxes under which the sale is made, plus penalties, interest, and the pro rata share of costs of sale, and such sale is made subject to all other taxes. Where real estate has been twice offered for sale at separate public tax sales and no sufficient bid as aforesaid has been made, the property will be sold at a later public tax sale to the highest bidder for cash (without minimum limitation); and in such case where the aggregate amount of all delinquent taxes equals or exceeds the last assessed valuation of the real estate, the successful purchaser is entitled to receive immediately a tax deed conveying the property free

³²³ Acts 1932 (Spec. Sess.); Burns 64-1509, 64-1511; Baldwin 15752, 15754. Acts 1919, 1931; Burns 64-1701 to 64-1705, 64-2201, 64-2203 to 64-2211; Baldwin 15778 to 15782, 15806, 15808 to 15818. Acts 1919, 1931, 1937; Burns, 1939 suppl., 61-2202; Baldwin, 1937 suppl., 15807.

³²⁴ Acts 1919, 1931; Burns 64-2301, 64-2401, 64-2403; Baldwin 15819, 15832, 15811. Interview of January 22, 1940 with E. P. Brennan, state examiner.

Infants, idiots, and insane persons may redeem their lands within two years after expiration of disability. Acts 1919; Burns 64-2302; Baldwin 15820.

and clear of all taxes which became delinquent at least 15 months before the last sale.³²⁵

EXCISE TAXES AND LICENSING

The tax on financial institutions is an excise tax³²⁶ (in lieu of all other taxes) on banks, trust companies, and building and loan associations. It is administered by the county auditor and treasurer under the supervision of the state board of tax commissioners.³²⁷

The inheritance tax is an excise tax administered by the county assessor and treasurer, under the supervision of the state board of tax commissioners, and by the circuit court. A schedule must be filed with the court within 12 months after the decedent's death. Notice is given to the interested parties, the estate is appraised, and the court determines the amount of tax due. The court appoints the county assessor to act as the appraiser in every estate; and he appraises all property at the fair market value, as of the date of the transfer.³²⁸ The appraiser makes his report in duplicate, one copy to the court and one to the state board of tax commissioners.³²⁹ The treasurer collects the tax and issues a receipt in duplicate, one copy of which is sent to the state board; and no final accounting of an estate is made until such receipt is countersigned by that board.³³⁰ The county treasurer must report quarterly to the auditor of state all inheritance taxes received by him. All such collected taxes are transmitted by the county treasurer, through a warrant issued by the county auditor, to the treasurer of state.³³¹ When directed by the court to do so, the prosecuting attorney sues to collect the tax.³³²

³²⁵ Acts 1932 (Spec. Sess.); Burns 64-1509; Baldwin 15752. Acts 1919; Burns 64-1516, 64-2204; Baldwin 15759, 15809. Acts 1919, 1931, 1937; Burns, 1939 suppl., 64-2202; Baldwin, 1937 suppl., 15807. *Opinions of the Attorney General of Indiana, 1938*, p. 255; 1939, p. 211.

³²⁶ Lutz v. Arnold (1935), 208 Ind. 480, 193 N. E. 840.

³²⁷ Acts 1933; Burns 64-801 to 64-834; Baldwin 15582 to 15615. *Opinions of the Attorney General of Indiana, 1939*, p. 252.

³²⁸ Acts 1931, 1933; Burns 6-2408; Baldwin 15946. Acts 1931, 1933, 1937; Burns, 1939 suppl., 6-2407; Baldwin, 1937 suppl., 15945. *Opinions of the Attorney General of Indiana, 1939*, p. 326. "Inheritance Tax", *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (1940), 32-39.

³²⁹ Acts 1931; Burns 6-2410; Baldwin 15948.

³³⁰ Acts 1931; Burns 6-2413; Baldwin 15951.

³³¹ Acts 1931; Burns 6-2414; Baldwin 15952.

Refunds of inheritance taxes. *Opinions of the Attorney General of Indiana, 1939*, p. 88.

³³² Acts 1931; Burns 6-2415; Baldwin 15953.

The intangible tax³³³ is a stamp tax on notes, stocks, bonds, and other evidence of property interests or obligations for payment of money. This tax is administered by the county assessor³³⁴ and treasurer, under the supervision of the state board of tax commissioners. Stamps are issued by the state board and sold by the county treasurer.³³⁵ The taxpayer is required to file with his tangible personal property schedule an affidavit showing that he has complied with the intangible tax law.³³⁶ If the tax is not paid when due, it is entered on the tax duplicate of the county where the taxpayer resides or his property is located. Omitted property may be assessed by any officer of the county having authority under the general taxing laws to assess omitted property or by the state board of tax commissioners.³³⁷ In case of nonpayment, suit for collection may be brought by the prosecuting attorney or the attorney general.³³⁸

The excise tax on dogs and dog kennels is administered by the township assessors and the county auditor. After making assessment of personal property for property taxes each township assessor makes inquiry concerning dogs and kennels, collects the excise tax thereon for the ensuing year, and issues licenses and receipts. The county auditor collects the tax and issues licenses and receipts if the township assessor fails to do so.³³⁹ The money so collected constitutes a fund known as the "dog fund", and is used to pay for damage to or loss of livestock caused by dogs or rabies. Dog funds exceeding \$100, over and above all warrants drawn on the same, in any township on the first Monday in March are transferred on the following Monday to townships in which the dog fund is less than the warrants drawn thereon.³⁴⁰

³³³ The intangible tax is an excise tax. *Lutz v. Arnold* (1935), 203 Ind. 480, 193 N. E. 840.

³³⁴ Acts 1933; Burns 64-917; Baldwin 15915. Acts 1933, 1935; Burns, 1939 suppl., 64-906; Baldwin, 1935 suppl., 15904. "Valuation of Intangibles", *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (1940), 39-53.

Mortgage which does not create a personal liability is subject to intangible tax. *Opinions of the Attorney General of Indiana, 1939*, p. 222.

³³⁵ Acts 1933; Burns 64-924, 64-927; Baldwin 15912, 15925.

³³⁶ Acts 1933; Burns 64-918; Baldwin 15916.

³³⁷ Acts 1933, 1935; Burns, 1939 suppl., 64-915; Baldwin, 1935 suppl., 15913.

³³⁸ Acts 1933; Burns 64-921; Baldwin 15919.

³³⁹ Acts 1937; Burns, 1939 suppl., 16-317; Baldwin, 1937 suppl., 3811-1.

³⁴⁰ Acts 1937; Burns, 1939 suppl., 16-324 to 16-326; Baldwin, 1937 suppl., 3811-8 to 3811-10.

The clerk of the circuit court issues licenses for marriages,³⁴¹ physicians, surgeons,³⁴² midwives,³⁴³ osteopaths,³⁴⁴ chiropractors, drugless healers,³⁴⁵ dentists,³⁴⁶ optometrists,³⁴⁷ hunting, trapping, fishing,³⁴⁸ poultry dealers,³⁴⁹ and junk dealers.³⁵⁰ He registers certificates of trained nurses.³⁵¹ Formerly he issued liquor licenses,³⁵² brokers' licenses,³⁵³ licenses for veterinarians,³⁵⁴ stallions,³⁵⁵ and pettmoney lenders,³⁵⁶ and kept a register of certificates of agents of foreign insurance companies.³⁵⁷

³⁴¹ Rev. Stat. 1838, ch. 68, sec. 3. Rev. Stat. 1843, ch. 35, secs. 8, 9, 12. 1 Rev. Stat. 1852; Burns 44-201; Baldwin 5622.

The judge of the circuit court may waive certain provisions of the law requiring laboratory tests and medical certificates. Acts 1939; Burns, 1939 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

³⁴² Acts 1881, ch. 19, secs. 10, 11. Acts 1885 (Spec. Sess.), ch. 77, sec. 2 (repealed by Acts 1897, ch. 169, sec. 10). Acts 1897; Burns 63-1303; Baldwin 10705.

³⁴³ Acts 1897; Burns 63-1303; Baldwin 10709.

³⁴⁴ Acts 1901; Burns 63-1316; Baldwin 10716.

³⁴⁵ Acts 1927; Burns 63-1312; Baldwin 10713.

³⁴⁶ Acts 1899, ch. 211, secs. 5, 7 to 11. Acts 1913, 1931, 1935; Burns, 1939 suppl., 63-504; Baldwin, 1935 suppl., 5589. Acts 1913, 1931; Burns 63-506, 63-507; Baldwin 5591, 5592.

³⁴⁷ Acts 1907; Burns 63-1009; Baldwin 13180. Acts 1907, 1935; Burns, 1939 suppl., 63-1010 63-1011; Baldwin, 1935 suppl., 13181, 13182.

³⁴⁸ Acts 1901, ch. 203, sec. 13. Acts 1907, ch. 216, sec. 9. Acts 1911, ch. 286, secs. 1, 2. Acts 1927, 1933; Burns 11-302, 11-310; Baldwin 8302, 8309. Acts 1937; Burns, 1939 suppl., 11-1403; Baldwin, 1937 suppl., 8229-3.

The cited sections of the Acts of 1901, 1911, 1927, and 1933 were repealed by Acts 1937, ch. 21, sec. 161.

³⁴⁹ Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-802; Baldwin 10486.

³⁵⁰ Acts 1905; Burns 42-703; Baldwin 10462.

³⁵¹ Acts 1905, 1913, 1931; Burns 63-903; Baldwin 13036.

³⁵² This duty existed from the organization of the county until 1841 and from 1917 to 1933. Acts 1816-17, ch. 15, sec. 6. Acts 1817-18 (general), ch. 47, secs. 1, 2. Acts 1820-21, ch. 36, secs. 1, 2. Rev. Laws 1824, ch. 15, sec. 5; ch. 16, sec. 6. Rev. Laws 1831, ch. 20, sec. 6. Rev. Stat. 1838, ch. 21, sec. 6; ch. 105, secs. 1-10. Acts 1840-41 (general), ch. 2, secs. 8, 54, Acts 1917, ch. 4, secs. 10, 11. Acts 1933, ch. 79, sec. 1.

³⁵³ Acts 1840-41 (general), ch. 5, sec. 18.

³⁵⁴ Acts 1901, ch. 189, sec. 7 (repealed by Acts 1905, ch. 98, sec. 17).

³⁵⁵ Acts 1889, ch. 116, sec. 1 (superseded by Acts 1913, ch. 28, creating the stallion enrollment board).

³⁵⁶ Acts 1913, ch. 167, secs. 1 to 4 (repealed by Acts 1917, ch. 125, sec. 6).

³⁵⁷ Acts 1901, ch. 180, sec. 1, Acts 1903, ch. 66, sec. 1. Acts 1865, 1877, 1899; Burns 39-1701; Baldwin 9567. All of these laws were repealed by Acts 1935, ch. 162, sec. 276.

The judge of the circuit court has authority to issue licenses to carry pistols. When the judge grants an application for such license, he usually orders the clerk of the circuit court to issue the license; and in issuing such licenses the clerk acts for the judge.³⁵⁸ The sheriff issues licenses for the retail sale of pistols.³⁵⁹

The county auditor issues licenses for peddlers, shows, theaters,³⁶⁰ transient merchants,³⁶¹ public warehouses,³⁶² and ferries.³⁶³ He issued liquor licenses before 1917.³⁶⁴ The board of commissioners authorizes the issuance of ferry licenses,³⁶⁵ and before 1917 authorized the issuance of liquor licenses.³⁶⁶

³⁵⁸ Acts 1913, ch. 167, sec. 1 (repealed by Acts 1917, ch. 125, sec. 6). Acts 1925, 1929; Burns 10-4721, 10-4723, 10-4725; Baldwin 2557, 2559, 2561 (all repealed by Acts 1935, ch. 63, sec. 21). Acts 1935, 1937; Burns, 1939 suppl., 10-4728; Baldwin, 1937 suppl., 2569-5. *Opinions of the Attorney General of Indiana, 1937*, p. 242.

³⁵⁹ Acts 1935, 1937; Burns, 1939 suppl., 10-4742; Baldwin, 1937 suppl., 2569-9.

Forms for these licenses are prescribed by the superintendent of the state police. *Ibid.*

³⁶⁰ Acts 1917, 1937; Burns, 1939 suppl., 42-201; Baldwin, 1937 suppl., 10443. 1 Rev. Stat. 1852; Burns 42-204; Baldwin 10447. Acts 1901; Burns 42-502, 42-503; Baldwin 10470-1, 10471. Acts 1885; Burns 42-510; Baldwin 10478.

³⁶¹ Acts 1901; Burns 42-402; Baldwin 10491.

The auditor keeps a record of such licenses in a book provided for that purpose, and it is open for public inspection. *Ibid.*

³⁶² Acts 1875, 1879 (Spec. Sess.); Burns 67-201; Baldwin 16206.

³⁶³ Rev. Stat. 1838, ch. 41, secs. 1-4, 8, 11. Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53; ch. 17, secs. 1-23. 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418. Acts 1881 (Spec. Sess.), 1911; Burns 36-2501 to 36-2504; Baldwin 7676 to 7679. 1 Rev. Stat. 1852, Acts 1855; Burns 36-2601 to 36-2607; Baldwin 7691 to 7697. Acts 1881 (Spec. Sess.), 1897; Burns 36-2608 to 36-2618; Baldwin 7698 to 7703. Acts 1917, 1937; Burns, 1939 suppl., 42 201; Baldwin, 1937 suppl., 10443.

³⁶⁴ Rev. Stat. 1838, ch. 105, secs. 1-10. Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 59, sec. 15. 1 Rev. Stat. 1852, ch. 8, sec. 3; ch. 20, secs. 7, 14; ch. 92, sec. 1. Acts 1853, ch. 66, secs. 1-4. Acts 1855, ch. 105, secs. 4-8; ch. 106, secs. 1, 2. Acts 1858 (Spec. Sess.), ch. 15. Acts 1859, ch. 130, secs. 1-7. Acts 1873, ch. 59, secs. 1-5, 20. Acts 1875 (Spec. Sess.), ch. 13, secs. 1-9, 21. Acts 1895, ch. 127, secs. 1, 8-10. Acts 1897, ch. 167, secs. 1-3. Acts 1905, ch. 6, sec. 1. Acts 1911, ch. 119, secs. 3-8, 16, 28; ch. 148, secs. 1, 2, 7-9, 11. Acts 1915, ch. 10, sec. 1. Acts 1917, ch. 4, secs. 4, 40.

³⁶⁵ Acts 1807, ch. 33 (misnumbered 31), secs. 1, 6; ch. 51, sec. 14. Acts 1816-17, ch. 29, sec. 2. Rev. Stat. 1838, ch. 41, secs. 1-4, 8, 11. Rev. Stat. 1843, ch. 17, secs. 1-23. Acts 1881 (Spec. Sess.), 1911; Burns 36-2501 to 36-2504; Baldwin 7676 to 7679. 1 Rev. Stat. 1852, Acts 1855; Burns 36-2601 to 36-2607; Baldwin 7691 to 7697. Acts 1881 (Spec. Sess.), 1897; Burns 36-2608 to 36-2618; Baldwin 7698 to 7708. Acts 1917, 1937; Burns, 1939 suppl., 42-201; Baldwin, 1937 suppl., 10443.

³⁶⁶ Acts 1807, ch. 17, secs. 1, 4. Acts 1813, ch. 3, sec. 2. Acts 1817-18 (general), ch.

FEES

The laws provide for the charging of fees by various county officials. Salaried officials cannot disburse their fees for office expense, or retain the fees or interest thereon as compensation, unless a statute enacted since 1932 specifically authorizes them to do so. Such fees must be paid into the county treasury. The officer cannot draw any salary while illegally withholding fees.³⁶⁷

County officials may charge and collect only such fees as are allowed by statute.³⁶⁸ If an officer collects illegal fees, the county cannot recover them from him, since they belong to the person paying the same.³⁶⁹ If the officer unlawfully refuses to pay over fees collected by him, an action lies on his bond;³⁷⁰ and if he pays over fees which he is entitled to retain, he may sue to recover the same.³⁷¹

All officers are required to keep complete records of all fees received from any source whatever. Such records are subject to public inspection at any time, and must be examined by the board of commissioners at their meetings.³⁷²

The clerk of the circuit court, treasurer, sheriff, and recorder must make reports of fees to the auditor quarterly and at the expiration of their terms of office. The treasurer also makes a monthly report of fees to the auditor.³⁷³ The

47, secs. 1, 2. Rev. Stat. 1838, ch. 105, secs. 1-10. Rev. Stat. 1843, ch. 59, sec. 15. 1 Rev. Stat. 1852, ch. 92, sec. 1. Acts 1853, ch. 66, sec. 8. Acts 1855, ch. 105, secs. 4-8; ch. 106, sec. 4. Acts 1858 (Spec. Sess.), ch. 15. Acts 1859, ch. 130, secs. 1-7. Acts 1873, ch. 59, secs. 1-5, 20. Acts 1875 (Spec. Sess.), ch. 13, secs. 1-9, 21. Acts 1895, ch. 127, secs. 1, 8-10. Acts 1897, ch. 167, secs. 1-3. Acts 1905, ch. 6, sec. 1. Acts 1911, ch. 119, secs. 3-8, 16, 28; ch. 148, secs. 1, 2, 7-9, 11. Acts 1915, ch. 10, sec. 1. Acts 1917, ch. 4, secs. 4, 40.

³⁶⁷ Acts 1933; Burns 49-1001, 49-1005; Baldwin 7531, 7535. Acts 1895; Burns 49-1410; Baldwin 7585. Keifer v. Summers (1894), 137 Ind. 106, 35 N. E. 1103; Applegate v. State *ex rel.* Pettijohn (1933), 205 Ind. 122, 185 N. E. 911; Board of County Comrs. v. Lewis (1924), 81 Ind. App. 601, 144 N. E. 623.

³⁶⁸ Noble v. Board of County Comrs. (1885), 101 Ind. 127; Legler v. Paine (1896), 147 Ind. 181, 45 N. E. 604.

³⁶⁹ State *ex rel.* Board of County Comrs. v. Williams (1906), 39 Ind. App. 376, 77 N. E. 1137.

³⁷⁰ Acts 1883; Burns 49-142; Baldwin 13094. Workman v. State *ex rel.* Board of County Comrs. (1905), 165 Ind. 42, 73 N. E. 917.

³⁷¹ Board of County Comrs. v. Crone (1905), 36 Ind. App. 283, 75 N. E. 826.

³⁷² Acts 1895; Burns 49-1401, 49-1409; Baldwin 7576, 7584. Acts 1879 (Spec. Sess.); Burns 49-2723; Baldwin 1443. Acts 1909; Burns 60-213; Baldwin 13864.

³⁷³ Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. Acts 1919; Burns 64-2101; Baldwin 15802.

clerk of the circuit court annually delivers to the auditor a list of all fines and jury fees collected during the preceding year, and also a list of all fees in his hands which have remained unclaimed for two years. The auditor enters such lists in the order book (commonly called the "Commissioners' Record") of the board of commissioners and issues a quietus for the items of such lists which have been paid over to the county treasurer.³⁷⁴

FUNDS RECEIVED FROM THE STATE

The counties receive from the state a portion of the funds in the motor vehicle highway account of the state. This account is composed of excise taxes on motor vehicle fuel, motor vehicles, operators, and chauffeurs.³⁷⁵ The portion allotted to the counties is distributed on the basis of vehicular miles of county roads in each county as compared with the total in all counties. The 1937 law recites that there are 67,289 miles in Shelby County and 4,536,856 miles in all of the counties, but provision is made for a recount by the state highway commission and a change in allocation based thereon.³⁷⁶ Such funds are used by the county for construction and maintenance of county roads; and 20 percent of such funds may be used to pay off outstanding county unit road bonds.³⁷⁷

The counties receive from the state a portion of the license fees on liquor dealers. Distribution of such portion among the counties is based on the amount paid in for licenses with respect to dealers' premises located outside cities and towns in each county, as compared with the total for such areas in all counties.³⁷⁸

The counties receive a portion of the intangible tax. Distribution of such portion among the counties is based on the assessed valuation of the real property in each county, as compared to the total in all counties. One-fourth of the amount received by the county goes into the general fund of the county; and the remainder goes to the school funds of the

³⁷⁴ Acts 1841-42 (general), ch. 45, sec. 3. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437.

³⁷⁵ Acts 1937; Burns, 1939 suppl., 36-2801; Baldwin, 1937 suppl., 8695-1.

³⁷⁶ Acts 1937; Burns, 1939 suppl., 36-2808; Baldwin, 1937 suppl., 8695-8.

³⁷⁷ Acts 1937, 1939; Burns, 1939 suppl., 36-2804 to 36-2806; Baldwin, 1939 suppl., 8695-4; Baldwin, 1937 suppl., 8695-5, 8695-6.

³⁷⁸ Acts 1935, 1937, 1939; Burns, 1939 suppl., 12-505, 12-811; Baldwin, 1939 suppl., 3764-7, 3764-40(f).

township, city, and town taxing units within the county, on a basis of the valuation of the real property in each unit.³⁷⁹

Each county receives from the state, as reimbursement, about 81 percent of the money spent by the county for welfare assistance.³⁸⁰

Interest on the common school fund, the Congressional township school fund, and the permanent endowment fund of Indiana University is distributed by the state to the several counties for school purposes on the basis of average daily attendance of children in grades one to 12 in the schools of the respective counties.³⁸¹ School funds are discussed hereinafter under the heading "Education."

CLAIMS AND ALLOWANCES

Claims against the county, duly itemized and verified, in writing on forms furnished by the board of commissioners, may be filed with the auditor, who places them on the claim docket and thereafter presents to the board for decision. At a regular or special session of the board of commissioner, beginning at least five days after the docketing of the claim and three days after publication of notice by the auditor, the commissioners must examine the merits of the claim and may, in their discretion, allow it, in whole or in part, as they find it to be just and owing.³⁸² The board cannot allow a claim that has been previously disallowed.³⁸³

A claim for materials and supplies will not be allowed unless accompanied by a certificate of the auditor showing that the goods mentioned in the claim correspond in quality and prices with the contract.³⁸⁴ A claim on a contract for work to be conducted under the supervision of the county surveyor, or any architect, engineer, superintendent, or inspector appointed by the board of commissioners, must be accompanied by a certificate of the surveyor or such agent,

³⁷⁹ Acts 1933; Burns 64-922; Baldwin 15920.

³⁸⁰ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1405, 52-1412; Baldwin, 1937 suppl., 14078-117, 14078-124. This percentage was stated by the auditor of state in an interview on March 31, 1939.

³⁸¹ See the essay entitled "County School Fund Board."

³⁸² Acts 1899; Burns 26-538, 26-804; Baldwin 5403, 5256. Acts 1879 (Spec. Sess.); Burns 26-805, 26-807; Baldwin 5256. Acts 1897; Burns 26-806, 26-809; Baldwin 5260, 5257. Acts 1931; Burns 26-816 to 26-819; Baldwin 5268 to 5271.

³⁸³ Myers v. Gibson (1899), 152 Ind. 500, 53 N. E. 646.

³⁸⁴ Acts 1899; Burns 26-538; Baldwin 5403.

showing that the work therein mentioned was performed according to contract and that the amount claimed is due and owing by the terms of the contract.³⁸⁵ A claim based on a judgment or order of a court must be accompanied by a certified copy of such judgment or order.³⁸⁶

For the amount allowed by the board of commissioners, the auditor, after appropriation by the county council, issues a warrant which is countersigned by the treasurer and paid by the treasurer or a public depository designated thereon by him.³⁸⁷ An allowance not called for within five years may be cancelled.³⁸⁸ Preference in payment is given to claims for money advanced by any county officer for the use of the county pursuant to provisions of law or of any order of the board.³⁸⁹ However, no allowance can be made by the board of commissioners to one of its members for articles furnished by him to the county under a contract or otherwise.³⁹⁰

Any person feeling aggrieved by any decision of the board on any claim may appeal to the circuit court. In case of disallowance in whole or in part, the claimant may appeal as aforesaid or bring an independent suit against the board. The claimant must pay the costs of the appeal if he does not recover more on the appeal than was allowed by the board.³⁹¹ No complaint other than the claim (including certificates and exhibits, if any) presented to the board is required on appeal.³⁹² If the board allows only a part of the claim, and the claimant accepts payment of the amount allowed, he cannot bring suit for the remainder.³⁹³

In pursuance of appropriations by the county council,³⁹⁴ the circuit court may make allowances against the county for expense of administration of justice.³⁹⁵ Such allowances

³⁸⁵ Acts 1899; Burns 26-539; Baldwin 5404.

³⁸⁶ Acts 1911; Burns 26-614; Baldwin 5265.

³⁸⁷ Acts 1911; Burns 26-813, 26-814; Baldwin 5264, 5265. Acts 1937; Burns, 1939 suppl., 61-627; Baldwin, 1937 suppl., 13344-48.

³⁸⁸ Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

³⁸⁹ 1 Rev. Stat. 1852; Burns 26-802; Baldwin 5252.

³⁹⁰ Waymire v. Powell (1886), 105 Ind. 328, 4 N. E. 886.

³⁹¹ Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275.

³⁹² Board of County Comrs. v. Wertz (1887), 112 Ind. 263, 13 N. E. 874.

³⁹³ Western Constr. Co. v. Board of County Comrs. (1912), 178 Ind. 684, 98 N. E. 347.

³⁹⁴ Acts 1899; Burns 26-515, 26-527; Baldwin 5379, 5391.

³⁹⁵ Acts 1879 (Spec. Sess.); Burns 49-1432, 49-1434; Baldwin 13127, 13128.

Change of venue from county. Acts 1905; Burns 9-1312 to 9-1315; Baldwin 2233 to 2236.

Blank books and stationery. 2 Rev. Stat. 1852; Burns 49-2709; Baldwin 1436.

include compensation of witnesses,³⁹⁶ jurors,³⁹⁷ master commissioners,³⁹⁸ sheriff,³⁹⁹ bailiffs,⁴⁰⁰ court reporter,⁴⁰¹ page,⁴⁰² and attorneys appointed to represent poor persons.⁴⁰³

Within 10 days after adjournment of the session of the board of commissioners or of the court, at which allowances against the county are made, the auditor publishes notice showing all allowances made by the board or court. A warrant on an allowance by a court cannot be issued until three days after such publication.⁴⁰⁴

CUSTODY AND DISBURSEMENT OF FUNDS

The treasurer receives all money coming to the county, and disburses it on proper warrants (formerly called orders) issued by the auditor and countersigned by the treasurer.⁴⁰⁵

The board of finance has supervision of all public funds of the county and of the safekeeping and deposit thereof.⁴⁰⁶ The board designates depositories for public funds, after inviting and receiving proposals from banks and trust companies. The commission of a depository may be revoked by the board at any time.⁴⁰⁷ The resignation of a depository becomes effective 30 days after notice thereof to the board.⁴⁰⁸ Monthly statements are furnished by the depository to the board on or before the fifth day of each month, and are pre-

³⁹⁶ 1 Rev. Stat. 1852; Burns 9-2408; Baldwin 1306.

³⁹⁷ Acts 1881 (Spec. Sess.), 1913, 1927, 1933; Burns 4-3319; Baldwin 1277.

³⁹⁸ Acts 1881 (Spec. Sess.), 1903; Burns 4-3407; Baldwin 1286.

³⁹⁹ Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570.

Change of venue from county. Acts 1905; Burns 9-1315; Baldwin 2236.

⁴⁰⁰ Acts 1921, 1935; Burns, 1939 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. 2 Rev. Stat. 1852; Burns 49-2804; Baldwin 5496. *Opinions of the Attorney General of Indiana, 1939*, p. 312.

⁴⁰¹ Acts 1921, 1939; Burns, 1939 suppl., 4-3507; Baldwin, 1939 suppl., 1298-1. Acts 1893; Burns 4-3511; Baldwin 1300.

⁴⁰² *Opinions of the Attorney General of Indiana, 1939*, p. 312.

⁴⁰³ Acts 1881 (Spec. Sess.); Burns 2-211, 2-212; Baldwin 26, 27. Acts 1905; Burns 9-1314; Baldwin 2235. *Opinions of the Attorney General of Indiana, 1939*, p. 351.

⁴⁰⁴ Acts 1899; Burns 26-816; Baldwin 5268. Acts 1931; Burns 26-817; Baldwin 5269.

⁴⁰⁵ Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5336. 1 Rev. Stat. 1852; Burns 49-3103; Baldwin 5550. Acts 1937; Burns, 1939 suppl., 61-627; Baldwin, 1937 suppl., 13844-48.

⁴⁰⁶ Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

⁴⁰⁷ Acts 1937; Burns, 1939 suppl., 61-634 to 61-636; Baldwin, 1937 suppl., 13844-55 to 13844-57.

⁴⁰⁸ Acts 1937; Burns, 1939 suppl., 61-640; Baldwin, 1937 suppl., 13844-61.

served in the office of the board.⁴⁰⁹ All public funds paid into the county treasury must be deposited by the treasurer daily, in the name of the county, in one or more of such designated depositories. On or before the fifth day of each month, the treasurer must file with the secretary of the board a statement of the balance of funds at the end of the previous month, consistent with the statement furnished by the depository.⁴¹⁰ The treasurer deposits quarterly with the auditor all redeemed warrants.⁴¹¹

When the auditor draws a warrant, he charges it against the appropriation and particular fund under which it was drawn. Apportionment is made if more than one fund or appropriation is involved.⁴¹² Records of the warrants are kept in the manner prescribed by the state board of accounts. Formerly the number, date, amount, name of payee, and purpose of the warrant were entered in a book as prescribed by statute.⁴¹³ The auditor examines and settles all accounts and demands chargeable against the county which no law requires to be settled and allowed by some other tribunal or person.⁴¹⁴ Before issuing a warrant or quietus, the auditor must examine the account to ascertain whether it is correct and in proper form; and for this purpose may require the furnishing of information, vouchers, and exhibits sufficient to satisfy himself.⁴¹⁵

On claims (including claims on judgments) allowed by the board of commissioners, and on allowances made by courts for the cost of administration of justice, the auditor issues his warrant. But a warrant may be issued to pay a judgment, or for insanity inquests, salaries, management of the school funds, or for other liabilities for specific amounts fixed by law, when no allowance has been made as aforesaid.⁴¹⁶ War-

⁴⁰⁹ Acts 1937; Burns, 1939 suppl., 61-628; Baldwin, 1937 suppl., 13844-59.

⁴¹⁰ Acts 1937; Burns, 1939 suppl., 61-624; Baldwin, 1937 suppl., 13844-45.

Defunct depositories. *Opinions of the Attorney General of Indiana, 1939*, p. 247.

⁴¹¹ 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561. Interview of May 18, 1939 with E. P. Brennan, state examiner.

⁴¹² Acts 1899; Burns 26-544; Burns 26-544; Baldwin 5409.

⁴¹³ 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. Acts 1909; Burns 60-202; Baldwin 13855. Interview of August 15, 1939 with E. P. Brennan, state examiner.

⁴¹⁴ 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419.

⁴¹⁵ Acts 1909; Burns 60-215; Baldwin 13866.

⁴¹⁶ Acts 1897; Burns 26-809; Baldwin 5257. Acts 1911; Burns 26-813, 26-814; Baldwin 5264. 5265. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. *Blue v. State ex rel. Powell* (1936), 210 Ind. 486, 1 N. E. (2d) 122.

rants not called for within five years after the allowance of the claims on which they were drawn may be cancelled by the board of commissioners, if not called for after publication of notice.⁴¹⁷

Warrants drawn by the auditor on the treasurer must be accompanied by a carbon copy thereof, except in the case of state and township funds. If funds are available to pay the warrant, the treasurer, on presentation to him, detaches and retains the carbon copy, and countersigns the original and stamps thereon the name of the depository by which it is payable. The original warrant is delivered to the payee and the amount thereof is paid to the payee by the depository on presentation and surrender of the warrant. For the convenience of the payee, the treasurer may pay cash to the holder, on taking an assignment of the warrant, in which event such warrant will be deposited by the treasurer in the depository in lieu of cash.⁴¹⁸ The treasurer must deduct any delinquent taxes owing by the payee.⁴¹⁹ If no funds are available to pay the warrant, the treasurer endorses thereon the words "not paid for want of funds" and the date of such presentment; and thereafter the warrant draws legal interest. Interest ceases when funds become available for payment and the treasurer or auditor publishes a call for redemption.⁴²⁰ Outstanding warrants are redeemed by the treasurer according to priority of time of presentment. Such warrants must be received in payment of county taxes without regard to such priority.⁴²¹ When the treasurer redeems a warrant on which interest is due, he makes a notation thereon, and also in his account, showing the amount of interest paid.⁴²²

Every public officer who receives or distributes public funds must keep a cashbook wherein are entered daily, by item, all receipts of public funds. The book must be balanced daily, show funds on hand at the close of each day, and be kept open to public inspection.⁴²³ The treasurer keeps records of all

⁴¹⁷ Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

⁴¹⁸ 1 Rev. Stat. 1852; Burns 49-3111; Baldwin 5558. Acts 1937; Burns, 1939 suppl., 61-627; Baldwin, 1937 suppl., 13844-88.

⁴¹⁹ Acts 1919; Burns 64-1506; Baldwin 15768.

⁴²⁰ Acts 1889; Burns 49-3007, 49-3008; Baldwin 5420, 5421. 1 Rev. Stat. 1852; Burns 49-3111; Baldwin 5558.

⁴²¹ 1 Rev. Stat. 1852; Burns 49-3113; Baldwin 5560.

⁴²² 1 Rev. Stat. 1852; Burns 49-3112; Baldwin 5559.

⁴²³ Acts 1937; Burns, 1939 suppl., 61-623; Baldwin, 1937 suppl., 13844-44.

receipts and disbursements in a general account, and also in separate accounts for the separate appropriations and distinct funds. Current taxes are not entered on his account with the county until after his annual statement.⁴²⁴ At the end of March, June, September, and December, the treasurer makes out a report showing the amount of money in the county treasury and each distinct fund thereof. The report is examined by the board of commissioners at its next regular session.⁴²⁵

The treasurer gives a receipt for all money paid to him, which receipt (except for taxes) must be deposited by the payer with the auditor, who gives a quietus for the same.⁴²⁶

The board of commissioners, at its first regular session each year, makes out a statement of the receipts and expenditures for the previous calendar year, and causes it to be published and posted.⁴²⁷ The treasurer makes complete settlements with the board of commissioners at its January session each year.⁴²⁸ Settlements by the board of commissioners are not binding on the county where the officer has failed to account for any money received by virtue of his office or failed to perform any duty required of him by law.⁴²⁹

All taxes collected by the treasurer must be deposited in the depository as one fund, except when otherwise provided by law. Semiannually the treasurer settles with the state and the municipal corporations within the county for taxes collected for them. Before such settlements, he advances not exceeding 80 percent when request by the proper officer is made to the auditor and a warrant is drawn by him.⁴³⁰

From time to time without notice, the books and accounts of county officers are audited by the state examiner. Before

⁴²⁴ 1 Rev. Stat. 1852; Burns 49-3109; Baldwin 5554.

⁴²⁵ Acts 1895, 1913; Burns 49-1403; Baldwin 7578.

⁴²⁶ 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. 1 Rev. Stat. 1852; Burns 49-3104; Baldwin 5551.

⁴²⁷ Acts 1899; Burns 26-546; Baldwin 5411.

⁴²⁸ Acts 1899; Burns 26-531; Baldwin 5395.

Formerly the settlement was made in June. 1 Rev. Stat. 1852; Burns 49-3116; Baldwin 5563.

The state board of accounts now requires that settlements be recorded in the monthly balance record of the auditor and treasurer. Interview of May 18, 1939 with E. P. Brennan, state examiner.

Formerly the settlements were recorded in the order book (commonly called the "Commissioners' Record") of the board of commissioners. Acts 1899; Burns 26-531; Baldwin 5395.

⁴²⁹ Acts 1879 (Spec. Sess.); Burns 26-637; Baldwin 5341.

⁴³⁰ Acts 1937; Burns, 1939 suppl., 61-626; Baldwin, 1937 suppl., 13844-47.

1909 the judge of the circuit court examined the office of the clerk of the circuit court and reported thereon to the board of commissioners; and the board of commissioners examined other county offices.⁴⁸¹

PUBLIC DEBT

The constitution provides that the total amount of the county debt shall not exceed two percent of the value of the taxable property therein,⁴⁸² and a statute provides that such debt shall not exceed two percent of the taxable property less the total of all mortgage exemptions.⁴⁸³

The borrowing of money for the county must be authorized by ordinance of the county council.⁴⁸⁴ The notes, bonds, or other evidence of indebtedness are executed by the county commissioners and attested by the auditor.⁴⁸⁵ The obligations may bear interest at a rate not exceeding six percent per annum. If the interest rate exceeds five percent the issuance must be approved by the state board of tax commissioners.⁴⁸⁶ The council may provide for maturities at any time not exceeding 52 years from issuance.⁴⁸⁷

The bonds are issued after publication of notice, and must be sold for an amount not less than par value and accrued interest. If the amount of the bond issue is to exceed \$5,000, and if 10 taxpayers file objections with the auditor, the objections will be certified to the state board of tax commissioners for hearing and disposition.⁴⁸⁸

Temporary loans may be authorized to meet current running expenses to an amount not exceeding the revenue for the current

⁴⁸¹ 1 Rev. Stat. 1852; Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236, Acts 1897; Burns 26-636; Baldwin 5237. 2 Rev. Stat. 1852; Burns 49-2720; Baldwin 1439. 1 Rev. Stat. 1852; Burns 49-3110; Baldwin 5555. Acts 1909, 1915; Burns 60-201, 60-211; Baldwin 13854, 13862. *Opinions of the Attorney General of Indiana, 1939*, p. 184. Interview of May 18, 1939 with E. P. Brennan, state examiner.

⁴⁸² Const. 1851, art. 13, sec. 1. Exception is made in case of war, foreign invasion, or other public calamity. *Ibid.*

⁴⁸³ Acts 1899, 1921, 1929; Burns 26-532; Baldwin 5396.

⁴⁸⁴ *Ibid.*

⁴⁸⁵ Acts 1899, 1921; Burns 26-540; Baldwin 5405.

⁴⁸⁶ Acts 1899, 1921, 1929; Burns 26-532; Baldwin 5396. Acts 1919, 1920 (Spec. Sess.) 1921, 1923; Burns 64-1332; Baldwin 15736.

⁴⁸⁷ Acts 1899, 1921, 1929; Burns 26-532, 61-401; Baldwin 5396, 13896.

⁴⁸⁸ Acts 1899, 1921; Burns 26-540; Baldwin 5405. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736.

year, and only as an anticipation of such revenue. It is the duty of the county council each year to levy an annual tax to pay all such temporary loans.⁴³⁹

The county council must make a levy of not less than one-tenth of one percent on the taxable property of the county each year, for the purpose of retiring bonds previously issued; and the taxes collected therefrom must be invested in those bonds or other county securities, and shall constitute a sinking fund for the ultimate liquidation of such debt.⁴⁴⁰ The council must also levy each year a tax sufficient to pay interest for the year on bonds previously issued. If more taxes are collected under this levy than are needed to pay interest, such excess goes into the sinking fund to pay the principal.⁴⁴¹

ELECTIONS

In Indiana there are three types of elections: Primary; special; and general. Primary elections are for the purpose of nominating party candidates for all offices (other than those to be voted on by the entire electorate of the state) and electing precinct committeemen and delegates to state conventions of political parties. The primary election is mandatory for each political party in the state casting for its candidate for secretary of state ten percent or more of the aggregate vote cast for all candidates for secretary of state in the last general election.⁴⁴² Special elections are held to fill vacancies in the United States Congress, the Indiana General Assembly, in offices required to be filled by special election, and in all offices in case of a tie vote. They are ordered by the governor, announced by the sheriff, and conducted in the manner in which general elections are conducted.⁴⁴³ The general election, held biennially, is for the purpose of filling all existing vacancies in office, and all offices the terms of which will expire before the next general election thereafter.⁴⁴⁴

Primary elections are held on the first Tuesday after

⁴³⁹ Acts 1839, 1921, 1929; Burns 26-532; Baldwin 5396.

⁴⁴⁰ 1 Rev. Stat. 1852, Acts 1859; Burns 26-1006, Baldwin 5247. Acts 1899; Burns 26-515;

Baldwin 5379.

⁴⁴¹ 1 Rev. Stat. 1852; Burns 26 1007; Baldwin 5248.

⁴⁴² Acts 1915; Burns 29-501; Baldwin 7187.

⁴⁴³ Acts 1881 (Spec.Sess.), Burns 29-1701 to 29-1704; Baldwin 7246 to 7249.

⁴⁴⁴ Acts 1881 (Spec.Sess.), Burns 29-701; Baldwin 7081.

the first Monday in May preceding the general elections.⁴⁴⁵ They are held under the supervision of the board of primary election commissioners, consisting of the clerk of the circuit court and two persons (of opposite political parties nominated by their respective county chairmen) appointed by him. This board prepares and distributes ballots for the primary elections,⁴⁴⁶ and serves as the county board of election commissioners at the next general election.⁴⁴⁷

General elections are held biennially on the first Tuesday after the first Monday in November of even-numbered years.⁴⁴⁸ County officers elected by the people are county commissioners, county councilmen, judge and clerk of the circuit court, auditor, treasurer, sheriff, coroner, recorder, prosecuting attorney, surveyor, and county assessor. These elections are held under the supervision of the county board of election commissioners, which prepares and distributes all ballots used in the county (except for town elections).⁴⁴⁹ The county board of election commissioners appoints the election officials for each precinct, namely, one election inspector, two election judges, two poll clerks (and two assistant poll clerks if necessary), and two election sheriffs. The election inspector and election judges constitute the precinct board of election. The other precinct officials assist this board in conducting the election. The election judges, poll clerks, and election sheriffs must be qualified voters of opposite political faith. They are nominated by the chairmen of their respective county central committees. The inspector and judges must have been freeholders and resident householders of the precinct for at least one year, or resident householders therein for at least two years preceding the election, unless persons having these qualifications are not available. The inspector of elections is nominated by the chairman of the party casting the highest number of votes in the county in the

⁴⁴⁵ Acts 1915, 1917; Burns 29-508; Baldwin 7194.

⁴⁴⁶ Acts 1907, ch. 282, secs. 1, 13. Acts 1915, 1917; Burns 29-504; Baldwin 7190. See the essay entitled "Board of Primary Election Commissioners."

"Courts of equity have no jurisdiction to interfere in the purely political activities of political party organizations." State *ex rel.* Marion County Democratic Committee v. Marion Superior Court (1938), 214 Ind. 322. 15 N. E. (2d) 379.

⁴⁴⁷ Acts 1915, 1917; Burns 29-504; Baldwin 7190.

⁴⁴⁸ Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081.

⁴⁴⁹ Acts 1889; Burns 29-1002; Baldwin 7109. See the essay entitled County "Board of Election Commissioners."

last election for secretary of state. The township trustee serves as the election inspector in the precinct in which he resides.⁴⁵⁰

The constitution provides that all elections shall be "free and equal", prescribes the length of residence required of an elector, designates the time of holding elections, and gives the legislature power to provide for the registration of voters.⁴⁵¹

All voters at general and special elections must be duly registered for voting;⁴⁵² must be citizens of the United States; must be of the age of 21 years and upwards at the time of the election; and must have resided in the state six months, in the township 60 days, and in the ward or precinct 30 days, immediately preceding the election. Any person who has these qualifications may vote at the primary election next preceding the general or special election. If he is not so qualified at the time of the primary election but will be so qualified at the time of the general or special election, he may vote in the primary election on making an affidavit in the form required by law for such voters.⁴⁵³ Soldiers, sailors, and marines acquire no residence in the state for voting purposes by virtue of being stationed therein.⁴⁵⁴ The registration officer (the clerk of the circuit court *ex officio*) conducts the registration of voters.⁴⁵⁵

The board of county commissioners participates in various ways in the conduct of elections. The more important functions of the board in that connection are those of establishing election precincts and changing their boundaries;⁴⁵⁶ providing rooms for polling places and equipping them with voting booths and ballot boxes;⁴⁵⁷ and the purchase of voting machines when (permissive) for the several precincts.⁴⁵⁸

⁴⁵⁰ Acts 1929, 1933; Burns 29-804; Baldwin 7093. Acts 1929; Burns 29-805 to 29-807; Baldwin 7094 to 7096.

⁴⁵¹ Const. 1851, art. 2, secs. 1, 2, 14.

⁴⁵² Acts 1933; Burns 29-301; Baldwin 7299. See the essay entitled "Registration Officer."

⁴⁵³ U. S. Const., amend. 19. U. S. C., title 8, sec. 31 (law of 1870). Const. 1851, art. 2, sec. 2 (as amended in 1921). Acts 1915, 1917; Burns 29-510; Baldwin 7196. Acts 1881 (Spec. Sess.); Burns 29-703; Baldwin 7083. *Kelso v. Cook* (1916), 184 Ind. 173, 110 N. E. 987.

⁴⁵⁴ Const. 1851, art. 2, sec. 3. Acts 1881 (Spec. Sess.); Burns 29-705; Baldwin 7085.

⁴⁵⁵ Acts 1933, 1935; Burns, 1939 suppl., 29-306; Baldwin, 1935 suppl., 7304.

⁴⁵⁶ Acts 1933; Burns 29-319; Baldwin 7317. Acts 1889, 1907; Burns 29-801; Baldwin 7089. Acts 1920 (Spec. Sess.); Burns 29-901; Baldwin 7091.

⁴⁵⁷ Acts 1920 (Spec. Sess.); Burns 29-909; Baldwin 7154. Acts 1897; Burns 29-1121; Baldwin 7135.

⁴⁵⁸ Acts 1939; Burns, 1939 suppl., 29-562; Baldwin, 1939 suppl., 7245-1. Acts 1901, 1903; Burns 29-2404; Baldwin 7352.

Any qualified and registered elector of the county, who by reason of the nature of his business is absent or expects to be absent from the county on the day of holding an election, may vote by an absent-voter's ballot which he, by mail or in person, procures from the clerk of the circuit court.⁴⁵⁹

The board of canvassers (consisting of the election commissioners,⁴⁶⁰ with the clerk of the circuit court acting as clerk)⁴⁶¹ tabulates and compiles the election returns of the county, and files all data, canvass sheets, certificates, poll books, and tally papers in the office of the clerk, and certifies the candidates elected.⁴⁶²

Recount of ballots must be ordered by the circuit court if a petition and cost bond therefor are presented by a defeated candidate within 12 days after the election. Such recount is made by commissioners appointed by the court, and it supersedes the certificate of the county board of canvassers. Thereafter the court hears the contentions of the parties and determines the result of the election.⁴⁶³

Each candidate for public office must file with the clerk of the circuit court, within 30 days after the election (general, special, or primary), a sworn statement setting forth his election expenses and promises. Failure to file such statement is a criminal offense and disqualifies the candidate from holding the office sought by him in such election.⁴⁶⁴

EDUCATION

FUNDS

The public school system of Indiana was provided for by the Ordinance of 1787.⁴⁶⁵ In 1816 the Congressional Township fund was provided for the development of the public school system. The fund was composed of the moneys arising

⁴⁵⁹ Acts 1935; Burns, 1939 suppl., 29-2601 to 29-2623; Baldwin, 1935 suppl., 7348-1 to 7348-23.

⁴⁶⁰ Acts 1905, 1927; Burns 29-1401; Baldwin 7377.

⁴⁶¹ Acts 1905; Burns 29-1402; Baldwin 7378.

⁴⁶² Acts 1905; Burns 29-1404, 29-1405; Baldwin 7380, 7381.

Duty to disregard all improperly marked ballots. *Craney v. Traylor* (1938), 214 Ind. 542, 16 N. E. (2d) 845.

⁴⁶³ Const. 1851, art. 2, sec. 14 (as amended in 1881). Acts 1915, 1917, 1925, 1929; Burns 29-511; Baldwin 7196. Acts 1933, 1935; Burns, 1939 suppl., 29-2301 to 29-2309; Baldwin, 1935 suppl., 7428 to 7435, 7427-1. *State ex rel. Lord v. Sullivan* (1938), 214 Ind. 279, 15 N. E. (2d) 334.

⁴⁶⁴ Acts 1911, 1913, 1915; Burns 29-2508; Baldwin 7445.

⁴⁶⁵ Ordinance of 1787, art. 3; *U. S. Statutes at Large*, 1:52 note.

from the sale and leasing of lands of section 16 of each Congressional Township.⁴⁶⁶ This fund was not handled efficiently before 1851.⁴⁶⁷ Interest in education grew slowly before 1849. In that year the first tax law for the support of schools was passed.⁴⁶⁸ It was not until after the adoption of the Constitution of 1851 and the passage of the school law of 1852 that education received any serious attention from the state.⁴⁶⁹ The school law of 1865 brought the most complete revision.⁴⁷⁰ The constitution provides that the general assembly shall encourage and provide for a general and uniform system of common schools.⁴⁷¹

The Constitution of 1851 established the common school fund composed of: The Congressional Township fund and the lands belonging thereto; the surplus revenue fund; the bank tax fund; the saline fund and the lands belonging thereto; the funds to be derived from the sale of county seminaries, and the moneys and properties previously held for such seminaries; fines and forfeitures; decedents' estates escheated to the state for want of heirs; taxes on the property of corporations which may be assessed by the general assembly for common school purposes; all lands granted to the state without designation of purpose, and the proceeds of sale thereof (including the proceeds of sale of swamplands granted in 1850, less the expense of selection and drainage).⁴⁷²

The Constitution of 1851 further provided that the principal of the common school fund must remain a perpetual fund and be invested so that it may increase but never diminish; and that the interest earned by the fund may be expended for the support of the common schools and for no other purpose. The general assembly was required to invest all funds that were not already under the supervision of the counties, and was directed to provide laws for the distribution of the interest to the counties.⁴⁷³

⁴⁶⁶ *U. S. Statutes at Large*, 3:289 (law of 1816).

⁴⁶⁷ Logan Esarey, *History of Indiana* (1924), 2:679, sec. 122.

⁴⁶⁸ Acts 1848-49 (general), ch. 116, sec. 1. Fassett A. Cotton, *Education in Indiana* (Bluffton, Indiana, 1934), 10.

⁴⁶⁹ Const. 1851, art. 8. 1 Rev. Stat. 1852, ch. 98.

⁴⁷⁰ Acts 1865; Burns 28-101; Baldwin 6499.

⁴⁷¹ Const. 1851, art. 8, sec. 1.

⁴⁷² Const. 1851, art. 8, secs. 2-7. Acts 1865; Burns 28-101; Baldwin 6499.

⁴⁷³ Const. 1851, art. 8, secs. 3-5. Acts 1865; Burns 28-101; Baldwin 6499. Acts 1807; Burns 28-102; Baldwin 6500.

The school funds managed by the county are kept by the county auditor in three separate funds, (a) the common school fund, (b) the Congressional Township fund, and (c) the permanent endowment fund of Indiana University. The latter fund is derived from a tax levy of one-half of one cent on each \$100 of taxable property, collected each twelfth year after 1883 and distributed among the several counties according to population. Loans from these funds are made by the county school fund board. Each county is held liable for the preservation of the funds entrusted to it, and for the payment of the annual interest. The interest on these funds is paid into the state treasury and is thereafter distributed among the several counties on the basis of average daily attendance of school children therein, to be used for the support of the common schools. Shelby County (including Shelbyville) received \$9,632.93 for the school year 1937-38 from this source.⁴⁷⁴

The interest on the school funds aforesaid is supplemented by other funds provided by the general assembly for the public schools. From the general fund, the state supplies the county with tuition support of not less than \$700 annually for each teaching unit of 35 pupils in average daily attendance in grades one to eight, and for each unit of 25 pupils in average daily attendance in grades nine to 12. This fund is known as the "school tuition support fund."⁴⁷⁵ The total amount received by Shelby County (including Shelbyville) from this source during the school year 1937-38 was \$108,540.41.⁴⁷⁶

From the moneys raised from the excise tax against dealers in alcoholic beverages, one-third is distributed to the school corporations on the basis of average daily attendance.⁴⁷⁷ Shelby County (including Shelbyville) received

⁴⁷⁴ Const. 1851, art. 8, secs. 2-7. Acts 1907; Burns 28-102; Baldwin 6500. Acts 1865; Burns 28-104, 28-105; Baldwin 6499-1, 6511. Acts 1933, 1935, 1937; Burns, 1939 suppl., 28-1001 to 28-1003, 28-1006; Baldwin, 1937 suppl., 6502 to 6504, 6507. Acts 1865, 1873, 1897; Burns 28-1008; Baldwin 6485. Acts 1865, 1893, 1922 (Spec. Sess.), 1933; Burns 28-1013; Baldwin 6490. Acts 1897; Burns 28-5542 to 28-5545; Baldwin 6908 to 6911. Acts 1833; Burns 28-5579; Baldwin 6956. Board of County Comrs. v. Michener (1889), 120 Ind. 442, 22 N. E. 339; Fisher v. Brown (1902), 159 Ind. 139, 64 N. E. 614. "Report of the State Superintendent of Public Instruction, 1937-1938", *Year Book of the State of Indiana for the Year 1938* (1939), 411, 441. See the essay entitled "County School Fund Board."

⁴⁷⁵ Acts 1933, 1935, 1937; Burns, 1939 suppl., 28-1001 to 28-1003; Baldwin, 1937 suppl., 6502 to 6504.

⁴⁷⁶ "Report of the State Superintendent of Public Instruction, 1937-1938", *loc. cit.*, 411, 426.

⁴⁷⁷ Acts 1935, 1939; Burns, 1939 suppl., 12-811; Baldwin, 1939 suppl., 3764-40f. Acts 1865, 1893, 1932 (Spec. Sess.), 1933; Burns 28-1013; Baldwin 6490.

\$5,858.53 from this source for the school year 1937-38.⁴⁷⁸

A state stamp tax on intangible property has further provided financial aid to the schools. The money is collected and held separate from the general fund. Of the total amount, 10 percent is kept by the state for the expense of administering that tax, and the remainder is apportioned to the counties on the basis of assessed valuation of real property in the several counties. One-fourth of the amount received by each county is retained for its general fund, and the remainder is distributed to the school taxing units of the county on the basis of assessed valuation of real property in the several units.⁴⁷⁹ For the school year 1937-38 Shelby County and the school taxing units therein received \$10,375.36 from this source.⁴⁸⁰

In 1933 the common school relief fund was established for the purpose of aiding schools to continue in operation. The fund is derived from a seven cent tax levy on each \$100 of taxable property, real or personal, and a poll tax of 50 cents on each taxable poll.⁴⁸¹ Whenever any township trustee or board of trustees of any school town or school city ascertains that there is an insufficient amount of revenue to maintain the school for a term not to exceed eight months, such trustee or board must file a certificate with the county superintendent of schools stating its needs.⁴⁸² The county superintendent of schools forwards the certificate to the state board of education,⁴⁸³ and this board and the state board of accounts must examine the certificate and decide on the amount to be allotted to the school unit.⁴⁸⁴ The money received must first be used to pay any unpaid items of operating expenses which accrued before the making of such application; and any surplus must be used for the operating expenses of the current school year.⁴⁸⁵ Shelby County (including Shelbyville) received \$2,892.35 from this fund in the school year of 1937-38.⁴⁸⁶

⁴⁷⁸ "Report of the State Superintendent of Public Instruction, 1937-1938", *loc. cit.*, 411, 426.

⁴⁷⁹ Acts 1933; Burns 64-922; Baldwin 15920.

⁴⁸⁰ "Report of the State Superintendent of Public Instruction, 1937-1938", *loc. cit.*, 411, 426.

⁴⁸¹ Acts 1933, Burns 28-901; Baldwin 6431.

⁴⁸² Acts 1933; Burns 28-903; Baldwin 6433.

⁴⁸³ Acts 1933; Burns 28-904; Baldwin 6434.

⁴⁸⁴ Acts 1933; Burns 28-905; Baldwin 6435.

⁴⁸⁵ Acts 1933, 1935; Burns, 1939 suppl., 28-907; Baldwin, 1935 suppl., 6437. *Opinions of the*

Attorney General of Indiana, 1939, p. 197.

⁴⁸⁶ "Report of the State Superintendent of Public Instruction, 1937-1938", *loc. cit.*, 411, 426.

The school cities, towns, and townships may levy property taxes and poll taxes⁴⁸⁷ for the following school purposes: Renting, repairing, and constructing schoolhouses; furnishings, apparatus, fuel, tuition, and other current expenses;⁴⁸⁸ to enforce compulsory education and keep poor children in school;⁴⁸⁹ to provide rooms and equipment for the teaching of agriculture, home economics, physical culture, and practical mental culture;⁴⁹⁰ establishment of vocational schools;⁴⁹¹ and for the retirement of school bonds.⁴⁹²

ORGANIZATION

There are two major types of school organizations, (a) county schools and (b) town and city schools. The "county schools" are, in reality, township schools and are operated by the township trustees severally. The town and city schools are operated in a similar manner by school boards composed of three members appointed by the common council of the town or city.⁴⁹³

The county superintendent of schools, who is elected by the township trustees, has charge of each township institute, aids the trustee in the supervision of the township schools, and carries out all orders and instructions of the state superintendent of public instruction and the state board of education. He has no supervision of city or town schools.⁴⁹⁴

The township trustees, the county superintendent of schools, and the chairman of the board of school trustees of each city and town in the county compose the county board of education. The city and town school trustees (other than the chairman of the board) may attend the meetings of the county board of education but have no vote in the proceedings. The county board of education meets semiannually to consider the general needs of the schools.⁴⁹⁵

⁴⁸⁷ Acts 1919; Burns 64-101; Baldwin 15514.

⁴⁸⁸ Acts 1865, 1873, 1905, 1917; Burns 28-1101; Baldwin 6442.

⁴⁸⁹ Acts 1921; Burns 28-513; Baldwin 6707.

⁴⁹⁰ Acts 1913; Burns 28-3421; Baldwin 6468.

⁴⁹¹ Acts 1913, 1919; Burns 28-4902; Baldwin 6448.

⁴⁹² Acts 1937; Burns, 1939 suppl., 28-3218; Baldwin, 1937 suppl., 6623-11.

⁴⁹³ Acts 1905, 1915, 1919; Burns 28-1201; Baldwin 5962.

⁴⁹⁴ Acts 1899, 1911, 1913; Burns 28-702, 28-704, 28-705; Baldwin 5931, 5938, 5940. State *ex rel.* Nebeker v. Sutton (1884), 99 Ind. 300; State *ex rel.* Drummond v. Dillon (1890), 125 Ind. 65, 25 N. E. 126. See the essay entitled "County Superintendent of Schools."

⁴⁹⁵ Acts 1873, 1877; Burns 28-801; Baldwin 5983. Interview of July 26, 1939 with Grover Van Duyn, assistant state superintendent of public instruction. See the essay entitled "County Board of Education."

The local school systems are closely supervised by the state board of education, with the state superintendent of public instruction as its administrative head.⁴⁹⁶ One of the most important functions of the state board of education is the issuing of teachers' licenses. These are graded according to the kind and amount of training and experience of the licensee.⁴⁹⁷ The state board of education provides for the inspection of schools,⁴⁹⁸ establishes a uniform schedule of textbooks,⁴⁹⁹ and prescribes an accredited course of instruction for teacher training.⁵⁰⁰

Except as otherwise provided hereinafter, every child between the ages of seven and 16 years must attend "public school or other school taught in the English language which is open to the inspection of local and state attendance and school officers"; and the child must attend "such a school each year during the entire time the public schools are in session in the school district in which such child resides." A child will be excused for one year on a certificate of a physician that the child is physically or mentally unfit for school attendance. Children with defective hearing or sight may be sent to the Indiana State School for the Deaf or the Indiana State School for the Blind, respectively. The judge of the circuit court, when sitting as a juvenile court, may suspend the provisions of this law in cases of juvenile delinquents and incorrigibles, and may make special provisions for their education, such as placing them in special private schools or in the state correctional schools: Indiana Boys' School; Industrial School for Girls.⁵⁰¹

Whenever colored children reside in any school corporation, the school trustee or trustees may establish separate schools for them, providing they have rights, privileges, and advantages equal to those in the other schools in the corporation. Otherwise they must attend the public schools with

⁴⁹⁶ Acts 1865; Burns 28-301, 28-302; Baldwin 5890, 5891. Acts 1913; Burns 28-401; Baldwin 5906. Acts 1939; Burns, 1939 suppl., 28-401a; Baldwin, 1939 suppl., 5906-1.

⁴⁹⁷ Acts 1865; Burns 28-404; Baldwin 5920. Acts 1923; Burns 28-4201 to 28-4217; Baldwin 5912 to 5928.

⁴⁹⁸ Acts 1921; Burns 28-304, 28-305; Baldwin 6048, 5939.

⁴⁹⁹ Acts 1889, 1909, 1917; Burns 28-601; Baldwin 6675.

⁵⁰⁰ Acts 1923; Burns 28-4205; Baldwin 5916.

⁵⁰¹ Acts 1903, 1913, 1931, 1935, 1937; Burns, 1939 suppl., 9-2801; Baldwin, 1937 suppl., 1759. Acts 1903, 1905, 1907, 1913; Burns 9-2814; Baldwin 1761. Acts 1921; Burns 28-505; Baldwin 6698. *Opinions of the Attorney General of Indiana, 1939, p. 322.*

white children.⁵⁰² Colored schools are represented on the state board of education by the required presence of one member of the negro race.⁵⁰³

In 1913 the general assembly first provided that school corporations might establish vocational schools or departments for industrial, agricultural, and home economics education. These courses are established in a manner approved by the state board of education, and are maintained by the regular school funds or by a special tax levy.⁵⁰⁴ Classes may be held during the day or evening. The instruction is of less than college grade, but designed to meet the needs of persons over 14 years of age.⁵⁰⁵

Township trustees may furnish free transportation of pupils to and from township schools. If such transportation is provided, free transportation must also be furnished along the regular route for pupils attending parochial schools. If a township school is discontinued without being consolidated with a town school or city school, the township trustee must assign the pupils to another school and furnish transportation for those who live more than one and one-half miles from the school to which they are assigned. In case of consolidation of a township school with a town school or city school, transportation must be furnished for all pupils who live more than one-half mile outside the corporate limits of the town or city in which the consolidated school is located.⁵⁰⁶

PUBLIC HEALTH

The Indiana State Board of Health closely supervises and directs all local public health activities.⁵⁰⁷ Public health services are administered in the county by a part-time county

⁵⁰² Acts 1860 (Spec. Sess.), 1877, 1935; Burns, 1939 suppl., 28-5104; Baldwin, 1935 suppl., 6012.

⁵⁰³ Acts 1939; Burns, 1939 suppl., 28-401a; Baldwin, 1939 suppl., 5906-1.

⁵⁰⁴ Acts 1913, 1919; Burns 28-4902; Baldwin 6448.

⁵⁰⁵ Acts 1913, 1919; Burns 28-4903; Baldwin 6449.

⁵⁰⁶ Acts 1917, 1921; Burns 28-1220; 28-1228; Baldwin 6197, 6206. Acts 1925; Burns 28-1231, 28-1241; Baldwin 6268, 6218. Acts 1929; Burns 28-1242, 28-1252; Baldwin 6219, 6229. Acts 1935; Burns, 1939 suppl., 28-1266, 28-1274; Baldwin, 1935 suppl., 6230-1, 6230-9. Acts 1907, 1909, 1935, 1937; Burns, 1939 suppl., 28-2803; Baldwin, 1937 suppl., 6251. Acts 1921, 1933; Burns 28-2805; Baldwin 6266. Acts 1927; Burns 28-3504; Baldwin 6079. Acts 1917; Burns 28-3801; Baldwin 6271. Acts 1937; Burns, 1939 suppl., 28-3810; Baldwin, 1937 suppl., 6266-1. *Opinions of the Attorney General of Indiana, 1939*, pp. 25, 74, 91, 366.

⁵⁰⁷ Acts 1891, 1909; Burns 35-105, 35-106; Baldwin 8390, 8391.

health officer appointed by the board of commissioners, subject to approval by the state board.⁵⁰⁸ The state board is composed of several bureaus which perform many services for the local health officers. Some of these bureaus furnish laboratory services such as inspection of dairy products, analysis of water, food, and drugs, and making of bacteriological and pathological tests.⁵⁰⁹

The educational facilities offered by the state board of health are many. Literature, lectures, lantern slides, and motion picture films are available for use in schools and clubs or organizations desiring information on public health. These facilities may be obtained from the bureau of health and physical education, the bureau of communicable diseases, and the bureau of venereal diseases.⁵¹⁰

The state board of health distributes insulin, pneumonia serum, diphtheria toxoid, smallpox virus, and typhoid bacterins to physicians for indigent patients.⁵¹¹

Health laws require that public water supplies must be inspected by the state board of health;⁵¹² that manufacturing, storage, and retail establishments dealing in foodstuffs must maintain certain standards of sanitation and cleanliness;⁵¹³ that dwellings which are unsanitary, unsafe, unhealthful, or rendered uninhabitable by "the existence on the premises of a nuisance likely to cause sickness" among the occupants must be properly inspected and ordered vacated;⁵¹⁴ that health officers must ascertain the existence of rat infestations, order their extermination, and recommend methods of extermination.⁵¹⁵

Food and drug products are inspected in the state laboratory for adulteration or misbranding.⁵¹⁶ Dairy products are tested for butter fat content and weight.⁵¹⁷

⁵⁰⁸ Acts 1935; Burns, 1939 suppl., 35-118, 35-123; Baldwin, 1935 suppl., 8404-1, 8404-6. See the essay entitled "County Health Officer."

⁵⁰⁹ Acts 1905; Burns 35-302; Baldwin 8394.

⁵¹⁰ Acts 1891, 1909; Burns 35-106; Baldwin 8391. Interview of August 17, 1939 with Dr. Verne K. Harvey, director of the state board of health.

⁵¹¹ Acts 1907, 1919, 1929, 1935, 1939; Burns, 1939 suppl., 35-701 to 35-703, 35-710, 35-712; Baldwin, 1935 suppl., 13392 to 13394, 13395-1; Baldwin, 1939 suppl., 13395-2.

⁵¹² Acts 1909; Burns 35-202, 35-203; Baldwin 8411, 8412.

⁵¹³ Acts 1909; Burns 35-1001; Baldwin 8504.

⁵¹⁴ Acts 1917; Burns 35-1801; Baldwin 8563.

⁵¹⁵ Acts 1913; Burns 35-1601, 35-1602; Baldwin 8570, 8571.

⁵¹⁶ Acts 1905; Burns 35-302; Baldwin 8394. Acts 1907; Burns 35-1201; Baldwin 8432. Acts

1939, ch. 38.

⁵¹⁷ Acts 1913; Burns 35-1301; Baldwin 8455.

Contagious diseases must be reported to the state board of health and properly quarantined by the health officer.⁵¹⁸ All cases of tuberculosis⁵¹⁹ and leprosy must be reported to the state board as soon as they are diagnosed. The state board has jurisdiction to direct the care and disposition of lepers.⁵²⁰

All birth certificates must show that the attendant at such birth took the proper precautions to prevent ophthalmia neonatorum (the disease causing infant blindness).⁵²¹ If an infant's eyes show any sign of infection within two weeks after the date of birth, a written report thereof must be made to the health officer within six hours after such discovery.⁵²²

All persons applying to the clerk of the circuit court for a marriage license must present a certificate from a licensed physician stating that the applicant is not infected with communicable syphilis. Before giving such certificate, the physician must have a blood specimen of the applicant examined by the laboratory of the state board of health or a laboratory approved by the board. The test must be made not more than 30 days before the application for a license. The judge of the circuit court may waive these requirements at any time in case of "emergency or other causes shown by affidavit or other proof."⁵²³

The county health officer enforces the state health laws and the regulations of the state board of health; promotes health education; collects vital statistics; makes periodic reports to the state board of health; and keeps records of these reports in his record books.⁵²⁴

Counties have statutory authority to construct and maintain public hospitals, but conditions prevailing in Shelby County have not required a county hospital.⁵²⁵

VITAL STATISTICS

In Indiana the collection of vital statistics is super-

⁵¹⁸ Acts 1903; Burns 35-401, 35-403; Baldwin 8531, 8533.

⁵¹⁹ Acts 1917; Burns 35-601, 35-602; Baldwin 8402, 8552.

⁵²⁰ Acts 1917; Burns 35-501 to 35-503; Baldwin 8543 to 8545.

⁵²¹ Acts 1911; Burns 35-901; Baldwin 8558.

⁵²² Acts 1911; Burns 35-903; Baldwin 8560.

⁵²³ Acts 1939; Burns, 1939 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

⁵²⁴ Acts 1935; Burns, 1939 suppl., 35-118, 35-122, 35-123; Baldwin, 1935 suppl., 8404-1, 8404-5,

8404-6.

⁵²⁵ Acts 1903, 1939; Burns, 1939 suppl., 22-3201; Baldwin, 1939 suppl., 4507.

vised by the bureau of vital statistics of the state board of health.⁵²⁶ The county health officer makes the collection of local data on forms supplied by the state board of health, and periodically delivers reports of all records to the state board. The health officer collects statistics of births, deaths, marriages, and communicable diseases. Physicians, midwives, the clerk of the circuit court, and all responsible householders are required to report to the county health officer the facts needed for such statistics.⁵²⁷

All birth reports are to be made to the health officer within 36 hours after birth. A child that lives and breathes after birth, no matter how brief the period, and regardless of the period of gestation, is a living child; and if he thereafter dies, his birth and death must be reported and recorded.⁵²⁸

Deaths are reported as soon as possible, because a body may not be buried until a burial permit has been issued by the health officer in charge, and burial permits are not issued until the death certificate is completed. If death has occurred by means of violence or criminal practices, the death notice is referred to the coroner. Burial may be made anywhere in the state regardless of the county in which the permit is issued. When a death occurs outside the state, and the body is brought into the state for interment, the burial permit must be based on the transportation permit, and no record of the death is required.⁵²⁹ The burial permit is preserved with the records of the cemetery.⁵³⁰

Certified copies of the official records of births and deaths are furnished by the secretary of the state board of health, on request of any applicant. Courts and public officials will receive these copies as proof of the facts stated therein.⁵³¹

The clerk of the circuit court issues all marriage licenses, and makes a monthly report to the county health officer showing marriage statistics. The health officer records each marriage in his record book, and sends a quart-

⁵²⁶ Acts 1907, 1913; Burns 35-116; Baldwin 8399.

⁵²⁷ Acts 1881, ch. 19, sec. 11. Acts 1891, ch. 15, sec. 11. Acts 1907, 1913; Burns 35-115; Baldwin 8398.

⁵²⁸ Acts 1907, 1911, 1913; Burns 35-115, 35-116, 35-901; Baldwin 8398, 8399, 8558. Rule 4 of the state board of health.

⁵²⁹ Acts 1907, 1913; Burns 35-115; Baldwin 8398. Rule 3 of the state board of health.

⁵³⁰ Acts 1939; Burns, 1939 suppl., 20-1021; Baldwin, 1939 suppl., 4617-21.

⁵³¹ Acts 1907, 1913; Burns 35-116; Baldwin 8399.

erly report to the state board of health. Every marriage must be reported on an official blank, by the person performing the ceremony, within three days after the occurrence thereof, to the clerk of the circuit court of the county where the license was issued.⁵³²

Weekly reports, on printed forms provided by the United States Public Health Service, summarizing all communicable diseases or stating the absence thereof, are made by the local health officers to the state board of health.⁵³³

The heads of all public and private institutions, such as hospitals, poor asylums, and places of confinement, are required to keep all statistics concerning the inmates and make reports directly to the state board of health as required by the board.⁵³⁴

WELFARE ASSISTANCE

An important public service is the administration of the Public Welfare Act by the county department of public welfare, under the supervision of the Indiana State Department of Public Welfare.⁵³⁵

An applicant for old-age assistance must be at least 65 years old; must be a citizen of the United States; must have lived in the state for five years out of the last nine, the last year continuously; must be in need; must not be an inmate of a municipal, state, or national institution; and must not have transferred his property within the five years immediately before his application.⁵³⁶ He must reveal all property and income in which he has an interest,⁵³⁷ agree to reimburse the county for assistance given him, and assign as collateral security such part of his personal property as the county department of public welfare may require.⁵³⁸ After an investigation the county department may grant him assistance, never exceeding \$30 a month.⁵³⁹ A copy of the

⁵³² Acts 1881, ch. 19, sec. 11. Acts 1891, ch. 15, sec. 11. Acts 1907, 1913; Burns 35-115; Baldwin 8398. Rule 5 of the state board of health.

⁵³³ Acts 1907, 1913; Burns 35-115; Baldwin 8398. Rule 6 of the state board of health.

⁵³⁴ Acts 1907, 1913; Burns 35-117; Baldwin 8400.

⁵³⁵ See the essay entitled "County Department of Public Welfare."

⁵³⁶ Acts 1926 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1201; Baldwin, 1937 suppl., 14078-22.

⁵³⁷ Acts 1926 (Spec. Sess.); Burns, 1939 suppl., 52-1204; Baldwin, 1937 suppl., 14078-35.

⁵³⁸ Acts 1926 (Spec. Sess.); Burns, 1939 suppl., 52-1213; Baldwin, 1937 suppl., 14078-44.

⁵³⁹ Acts 1926 (Spec. Sess.); Burns, 1939 suppl., 52-1203; Baldwin, 1937 suppl., 14078-34.

certificate of award is filed in the office of the recorder, and constitutes a lien on any real property which the pensioner then owns or subsequently acquires.⁵⁴⁰ With the consent of the state department of public welfare, the county department may demand a transfer of all property he owns, on the sole condition that if assistance is suspended or if he dies the property will revert to him or his estate, subject to a lien for sums the state has paid to him.⁵⁴¹

A blind applicant, in order to receive state assistance, must be 21 years old if a male or 18 years old if a female; must be a citizen of the United States; must have lost his eyesight while a resident of the state or have lived in the state five of the last nine years, the last year continuously; must be in need; must not be an inmate of a municipal, state, or national institution; must not have transferred his property within the five years immediately before his application; and must not solicit alms while receiving assistance.⁵⁴² The amount he receives is determined by the county department after an investigation of his needs⁵⁴³ and never exceeds \$30 a month⁵⁴⁴ except as temporary assistance is given for treatment of his eyes.⁵⁴⁵ Blind children may be sent to the school for the blind near Indianapolis.⁵⁴⁶

A dependent or destitute child must have lived in the state one year preceding his application for assistance or have been born within the state during the year, his mother having resided in the state one year before his birth.⁵⁴⁷ The first dependent child may receive \$20, the second child \$18, and each additional child \$12 a month.⁵⁴⁸ A destitute child⁵⁴⁹ may receive as much as \$23 a month,⁵⁵⁰ and is

⁵⁴⁰ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1207; Baldwin, 1937 suppl., 14078-38.

⁵⁴¹ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1214; Baldwin, 1937 suppl., 14078-45.

⁵⁴² Acts 1936 (Spec. Sess.), 1937; Burns, 1939; suppl., 52-1221; Baldwin, 1937 suppl.,

14078-52.

⁵⁴³ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1225; Baldwin, 1937 suppl., 14071-56,

14078-58.

⁵⁴⁴ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1223; Baldwin, 1937 suppl., 14078-54.

⁵⁴⁵ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1236; Baldwin, 1937 suppl., 14078-67.

⁵⁴⁶ Acts 1865; Burns 22-601 *et seq.*; Baldwin 4560 *et seq.*

⁵⁴⁷ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1240, 52-1268 Baldwin, 1937 suppl.,

14078-71, 14078-97b.

⁵⁴⁸ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1241; Baldwin, 1937 suppl., 14078-72.

⁵⁴⁹ Acts 1937; Burns, 1939 suppl., 52-1267; Baldwin, 1937 suppl., 14078-97a.

⁵⁵⁰ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1269; Baldwin, 1937 suppl.,

14078-97c.

eligible for any other relief he may require.⁵⁵¹ Crippled children may be placed in any public or private hospital or be sent to the Riley Hospital at Indianapolis.⁵⁵² Diseased and defective children may be placed in any public hospital in the county by the judge of the circuit court.⁵⁵³ Orphan, dependent, and neglected children under 16 years of age are placed in private homes under the supervision of the county department of public welfare.⁵⁵⁴

No official, in carrying out the provisions of the Welfare Act, may take charge of a child over the objection of a parent or a person standing *in loco parentis* to the child, except pursuant to a court order.⁵⁵⁵ Persons receiving aid under the Welfare Act are ineligible for other public relief.⁵⁵⁶ Assistance is not transferable, is not subject to legal process, and is not an asset in bankruptcy proceedings.⁵⁵⁷

When a recipient of welfare assistance moves to another county in the state with the approval of the state department, there is no suspension of his assistance. The county to which a blind person moves is responsible immediately for the payment of his assistance. In case of the removal of a child or aged person, the county from which he moves is responsible for one year and then the other county becomes responsible.⁵⁵⁸

If a person entitled to assistance under the Welfare Act is unable to care for himself, the county department pays his relief money to some responsible person for his benefit.⁵⁵⁹ If a recipient of relief dies leaving an estate insufficient

⁵⁵¹ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1278; Baldwin, 1937 suppl., 14078-971.

⁵⁵² Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1256; Baldwin, 1937 suppl., 14078-87.

⁵⁵³ Acts 1933; Burns 52-501; Baldwin 5700.

⁵⁵⁴ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1104(c); Baldwin, 1937 suppl., 14078-5(c). Interview of December 11, 1939 with Thurman A. Gottschalk, chief administrator of the state department of public welfare.

Validity of regulations as to bringing nonresident children into the state for care by resident families. *Opinions of the Attorney General of Indiana, 1939*, p. 264.

⁵⁵⁵ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1417; Baldwin, 1937 suppl., 14078-130.

⁵⁵⁶ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1202, 52-1222; Baldwin, 1937 suppl., 14078-33, 14078-53.

⁵⁵⁷ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1210, 52-1231; Baldwin, 1937 suppl., 14078-41, 14078-62.

⁵⁵⁸ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1218, 52-1239, 52-1248; Baldwin, 1937 suppl., 14078-49, 14078-70, 14078-79.

⁵⁵⁹ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1208, 52-1229; Baldwin, 1937 suppl., 14078-39, 14078-60.

to bury him, and the persons legally responsible for his burial are unable to pay the expenses, the county department pays \$75 for his funeral, plus an additional \$25 for a burial lot (if the deceased did not own one).⁵⁶⁰

An appeal may be taken from the county department to the state department of public welfare.⁵⁶¹ Nothing in the Welfare Act relieves any person from liability for the support of a parent, child, or spouse.⁵⁶²

The county maintains an asylum for the poor.⁵⁶³ Pauper residents of the county may be placed therein by township trustees.⁵⁶⁴ Nonresident paupers may be kept there temporarily.⁵⁶⁵ The law provides that children between the ages of three and 17 shall not be kept in the asylum for a period longer than 60 days.⁵⁶⁶ Township poor relief is administered by each township trustee.⁵⁶⁷ Anyone refused relief by a township trustee has a right to a hearing before the board of commissioners⁵⁶⁸ and to an appeal from that board to the circuit court.⁵⁶⁹ The board of commissioners may borrow for township poor relief, if the funds available are not sufficient. The township funds are used for paying these loans.⁵⁷⁰

PUBLIC WORKS AND PROPERTY

The board of commissioners has power to make orders

⁵⁶⁰ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1209, 52-1230; Baldwin, 1937 suppl., 14078-40, 14078-61.

Burial of inmates of county infirmary. *Opinions of the Attorney General of Indiana, 1939*, p. 179.

⁵⁶¹ Acts 1936 (Spec. Sess.), Burns, 1939 suppl., 52-1211, 52-1232, 52-1246; Baldwin, 1937 suppl., 14078-42, 14078-63, 14078-77.

⁵⁶² Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1263; Baldwin, 1937 suppl., 14078-94.

⁵⁶³ Const. 1851, art. 9, sec. 3. 1 Rev. Stat. 1852; Burns 52-201; Baldwin 13360. Acts 1935; Burns, 1939 suppl., 52-146; Baldwin, 1935 suppl., 13320-3.

⁵⁶⁴ 1 Rev. Stat. 1852; Burns 52-201; Baldwin 13360. Acts 1935; Burns, 1939 suppl., 52-146, 52-151; Baldwin, 1935 suppl., 13320-3, 13320-8.

⁵⁶⁵ Acts 1935; Burns, 1939 suppl., 52-163; Baldwin, 1935 suppl., 13320-20.

⁵⁶⁶ Acts 1897, 1901; Burns 22-2608; Baldwin 4388.

⁵⁶⁷ Acts 1935, 1939; Burns, 1939 suppl., 52-144 to 52-182a; Baldwin, 1935 suppl., 13320-1 to 13320-38, 13359-11, 13359-12; Baldwin, 1939 suppl., 13320-4, 13320-13. Acts 1937; Burns, 1939 suppl., 52-183 to 52-194; Baldwin, 1937 suppl., 13321-1 to 13321-11, 13320-39.

⁵⁶⁸ Acts 1935; Burns, 1939 suppl., 52-160; Baldwin, 1935 suppl., 13320-17.

⁵⁶⁹ 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5276.

⁵⁷⁰ Acts 1935, 1939; Burns, 1939 suppl., 52-604, 52-609, 52-610; Baldwin, 1935 suppl., 13359-1, 13359-6; Baldwin, 1939 suppl., 13359-7.

respecting the property of the county in conformity to law; to sell the public grounds of the county on which public buildings are situated, and to purchase in lieu thereof, in the name of the county, other grounds in the county seat on which such buildings shall be erected; to purchase other lands for the enlargement of the public square, and to take care of and preserve such property; and to grant licenses, permits, or franchises with respect to the use of the property of the county.⁵⁷¹ No sale, conveyance, or purchase, by the board, of real estate of the value of \$1,000 or more can take place except pursuant to ordinance of the county council authorizing such sale or purchase and fixing the terms and conditions thereof.⁵⁷² The board cannot sell county property, real or personal, except at public auction after 60 days' notice by publication and posting.⁵⁷³

ROADS AND BRIDGES

The board of commissioners has power to construct and maintain roads⁵⁷⁴ and bridges.⁵⁷⁵ Generally the preliminary procedure for such construction is as follows: Taxpayers file with the board of commissioners a petition requesting the improvement; notice of hearing before the board is published; taxpayers opposing the petition file remonstrances; viewers appointed by the board make inspection and recommendations; damages to landowners are determined; the petition is approved or rejected; if approved, a contract for the work is let; and damages are paid. In some instances, bonds may be issued for the construction of roads⁵⁷⁶ and bridges,⁵⁷⁷ and special assessment

⁵⁷¹ 1 Rev. Stat. 1852, Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236.

⁵⁷² Acts 1899; Burns 26-534; Baldwin 5399.

⁵⁷³ Acts 1907; Burns 26-2008; Baldwin 5107.

⁵⁷⁴ Acts 1905, 1907; Burns 36-201 *et seq.*; Baldwin 2756 *et seq.* Acts 1919; Burns 36-301 *et seq.*; Baldwin 8859 *et seq.* Acts 1907; Burns 36-401 *et seq.*; Baldwin 8992 *et seq.* Acts 1919; Burns 36-501 *et seq.*; Baldwin 8879 *et seq.* Acts 1923; Burns 36-1001; Baldwin 9020. Acts 1905; Burns 36-1204; Baldwin 8807. Acts 1905; Burns 36-1301 *et seq.*; Baldwin 8787 *et seq.* Acts 1921; Burns 36-1401 *et seq.*; Baldwin 8804 *et seq.*

Budget estimates. *Bateman v. State* (1938), 214 Ind. 138, 14 N. E. (2d) 1007.

⁵⁷⁵ Acts 1905, 1907, 1929; Burns 36-1901; Baldwin 9236. Acts 1905, 1911, 1913; Burns 36-2001; Baldwin 9191. Acts 1903, 1923; Burns 36-2002; Baldwin 9192. Acts 1920; Burns 36-2401 *et seq.*; Baldwin 9151 *et seq.*

⁵⁷⁶ Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1435 to 36-1443; Baldwin 8338 to 8946. Acts 1937; Burns, 1939 suppl., 36-332; Baldwin, 1937 suppl., 8859-1.

⁵⁷⁷ Acts 1920 (Spec. Sess.); Burns 36-2402; Baldwin 9152. Acts 1927; Burns 36-2421; Baldwin 9171. Acts 1929, 1937; Burns, 1939 suppl., 36-2432; Baldwin, 1937 suppl., 9182. Acts 1927; Burns 36-2441; Baldwin 9128.

liens charged against the land benefited by the road.⁵⁷⁸

State highways are those roads which have been officially designated as such by the state highway commission with the approval of the governor. State highways and the bridges thereon are constructed, reconstructed, and maintained with state and federal funds under the supervision of the state highway commission. Roads not so designated as state highways, and those so designated and thereafter abandoned by the state, are known as county roads. County roads and the bridges thereon are constructed, reconstructed, and maintained with county funds.⁵⁷⁹ The county may render financial assistance to the state highway commission in the construction or maintenance of any state highway or bridge located wholly within the county, and any bridge (on such highway) over a stream forming the county boundary.⁵⁸⁰

The county surveyor ordinarily prepares the plans and specifications for the construction of county roads and bridges, and has general supervision of such construction. If he is not a competent civil engineer, the board may appoint one to perform such duties.⁵⁸¹

The county highway supervisor has general supervision of the maintenance and repair of all county roads, bridges, and culverts.⁵⁸² He makes maps of all county roads, and gives each road a name or number, so that the roads may be efficiently patrolled for making repairs.⁵⁸³ Weeds must be cut and removed from the right-of-ways of county roads each year between June 15 and September 1.⁵⁸⁴

⁵⁷⁸ Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1412 to 36-1414; Baldwin 8915 to 8917.

⁵⁷⁹ Acts 1917, ch. 87, secs. 5, 6, 9, 12, 27, 31; Acts 1919, ch. 53, secs. 12, 16, 23, 31. Acts 1933, 1925; Burns, 1939 suppl., 36-107, 36-117, 36-127; Baldwin, 1935 suppl., 8647, 8656, 8665. Acts 1933; Burns 36-110, 36-125, 36-1102; Baldwin 8649, 8663, 8700. Acts 1932 (Spec. Sess.); Burns 36-905; Baldwin 8715. Acts 1937, 1939; Burns, 1939 suppl., 36-2804, 36-2806; Baldwin, 1937 suppl., 8695-4, 8695-6; Baldwin, 1939 suppl., 8695-4. Acts 1937; Burns, 1939 suppl., 36-2912, 36-2913, 36-2920, 36-2921; Baldwin, 1937 suppl., 8696-11, 8696-12, 8696-19, 8696-20. Acts 1939; Burns, 1939 suppl., 36-3018; Baldwin, 1939 suppl., 9175-13.

Township roads transferred to county road system. Acts 1932 (Spec. Sess.), 1933; Burns 36-901 to 36-904; Baldwin 8711 to 8714.

⁵⁸⁰ Acts 1923, 1929; Burns 36-136 to 36-141; Baldwin 8672 to 8675, 8678, 8679.

⁵⁸¹ 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

⁵⁸² Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708.

⁵⁸³ Acts 1933; Burns 36-1109; Baldwin 8707.

⁵⁸⁴ Acts 1939; Burns, 1939 suppl., 36-714; Baldwin, 1939 suppl., 8619-1.

All expenses incurred in the maintenance of county roads must be paid out of funds received by the county from the motor vehicle highway account of the state; and no tax can be levied for such purpose except by the unanimous vote of the county council in case of extraordinary emergency or indispensable necessity.⁵⁸⁵

PUBLIC BUILDINGS

The law provides that the board of commissioners must cause a courthouse, jail, and public offices for the clerk, recorder, treasurer, and auditor to be erected and furnished, where this has not been done; and must keep all the public buildings of the county in repair; and that such offices must be fireproof, if practicable.⁵⁸⁶

For the purpose of acquiring a new courthouse, the board, without appraisement and without authority from the county council, may sell to the state any lands of the county containing public buildings, and buy other land for courthouse grounds. The proceeds of sale can be used only for the purchase of the land and construction of the courthouse. Additional funds for such purpose may be raised by issuing bonds or notes.⁵⁸⁷

If the courthouse or jail is wholly or partly destroyed by fire or windstorm, it may be reconstructed or repaired by the board; bonds may be issued therefor; and a tax may be levied to retire the bonds.⁵⁸⁸

County buildings, not needed by the courts or for county business, may be leased to the city or town in which such buildings are located for a term not exceeding 10 years in any one lease,⁵⁸⁹ or to private persons or corporations for a term not exceeding five years.⁵⁹⁰

The board may construct and maintain public halls, and provide a custodian, janitor, lights, and heat therefor; and may join with a city for such purpose, or sell such halls to a city or town.⁵⁹¹ The board may erect soldiers' monu-

⁵⁸⁵ Acts 1932 (Spec. Sess.); Burns 36-905; Baldwin 8715. Acts 1937, 1939; Burns, 1939 suppl., 36-2804; Baldwin, 1939 suppl., 8695-4. Acts 1937; Burns, 1939 suppl., 36-2806; Baldwin, 1937 suppl., 8695-6.

⁵⁸⁶ 1 Rev. Stat. 1852; Burns 26-624; Baldwin 5240.

⁵⁸⁷ Acts 1917, 1920 (Spec. Sess.); Burns 26-2201 to 26-2210; Baldwin 5165 to 5174.

⁵⁸⁸ Acts 1935; Burns, 1939 suppl., 26-2011; Baldwin, 1935 suppl., 5240-1.

⁵⁸⁹ Acts 1909; Burns 26-1801 to 26-1804; Baldwin 5151 to 5154.

⁵⁹⁰ Acts 1919; Burns 26-1805 to 26-1810; Baldwin 5155 to 5160.

⁵⁹¹ Acts 1903, 1913; Burns 26-1901 to 26-1906; Baldwin 5146 to 5164.

ments,⁵⁹² memorial buildings, auditoriums, and coliseums.⁵⁹³ A township schoolhouse may be used for certain public meetings, with the consent of the township trustee.⁵⁹⁴ A schoolhouse no longer used as such, because of the abandonment of the school or its consolidation with another school, may be reconstructed for use as a community house, on application of 51 percent of the resident freeholders of the school district.⁵⁹⁵

Contracts for construction of public buildings may be let by the board of commissioners in pursuance of appropriation by the county council,⁵⁹⁶ after plans and specifications adopted by the board have remained in the auditor's office 30 days open to public inspection, notice inviting bids has been published, and bids, affidavits, and bonds have been received from bidders.⁵⁹⁷

DRAINAGE

Drainage districts and special assessment liens on the land in the benefited area, to pay for the drainage, may be established by the circuit court on petition of landowners, after being referred to the county surveyor and viewers appointed by the court.⁵⁹⁸ The petition will be dismissed if owners of two-thirds of the affected land remonstrate within 20 days.⁵⁹⁹ If the original assessment is insufficient to complete the work, an additional assessment may be ordered after report of the surveyor, notice to the landowners, and hearing by the court.⁶⁰⁰ After assessments are adjusted and confirmed, they are placed on the ditch duplicate and collected in the manner in which taxes are collected.⁶⁰¹

The county surveyor has general supervision of the construction and maintenance of all ditches, drains, and levees.

⁵⁹² Acts 1865, 1891; Burns 26-1701; Baldwin 5298.

⁵⁹³ Acts 1913; Burns 26-1707; Baldwin 5132.

⁵⁹⁴ Acts 1859; Burns 28-3307; Baldwin 6094. Acts 1913; Burns 28-3308 to 28-3311; Baldwin 6095 to 6098. *Opinions of the Attorney General of Indiana, 1939*, p. 172.

⁵⁹⁵ Acts 1939 Burns, 1939 suppl., 28-3320; Baldwin, 1939 suppl., 6195-1.

⁵⁹⁶ Acts 1899; Burns 26-525; Baldwin 5389.

⁵⁹⁷ Acts 1899; Burns 26-537; Baldwin 5402. Acts 1907; Burns 26-2001 to 26-2005; Baldwin 5100 to 5104.

⁵⁹⁸ Acts 1933; Burns 27-104, 27-109, 27-116, 27-134; Baldwin 5740, 5745, 5752, 5770.

⁵⁹⁹ Acts 1933; Burns 27-108; Baldwin 5744.

⁶⁰⁰ Acts 1933; Burns 27-122; Baldwin 5758.

⁶⁰¹ Acts 1933; Burns 27-134; Baldwin 5770.

He makes all necessary surveys, maps, plans, and specifications when a court grants petitions for construction.⁶⁰² The law requires that open ditches be cleaned out and repaired biennially, and that weeds, willows, and debris be removed therefrom annually, and that public tile drains be repaired whenever necessary.⁶⁰³

The board of commissioners may (by purchase, grants, donations, or eminent domain) acquire lands and rights necessary to obtain a right-of-way for drainage or easement for sewers, when necessary for the proper maintenance of any county building or institution.⁶⁰⁴

OTHER PUBLIC PROPERTY

The board of commissioners may, without petition, purchase or otherwise acquire lands within the county for park purposes and make the necessary improvements thereon.⁶⁰⁵ If 200 persons, who are taxpayers and voters, petition the board to acquire land for park purposes, the board gives 60 days' notice by publication and conducts a public hearing on the question. If 20 percent of the resident taxpayers file remonstrances on or before the day fixed for hearing, the petition will be dismissed.⁶⁰⁶ The board may acquire land to convey to the state for park purposes, on petition of 200 persons who are taxpayers and voters, after (a) publication of 30 days' notice, (b) public hearing, (c) consent of the governor and the director of the state department of conservation, (d) fixing a tax levy, and (e) issuing bonds (if needed). The petition will be dismissed if 25 percent of the resident taxpayers file remonstrances before the date fixed for hearing.⁶⁰⁷

The board of commissioners may acquire, by purchase or gift, any lands within the county for the purpose of a permanent public forest.⁶⁰⁸ Purchase for such purpose may be

⁶⁰² Acts 1933; Burns 27-101, 27-201; Baldwin 5737, 5775. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

⁶⁰³ Acts 1933, 1935; Burns, 1939 suppl., 27-203, 27-210; Baldwin, 1935 suppl., 5777, 5784. Acts 1939; Burns, 1939 suppl., 27-233; Baldwin, 1939 suppl., 5794-9. *Opinions of the Attorney General of Indiana*, 1939, p. 292.

⁶⁰⁴ Acts 1937; Burns, 1939 suppl., 26-640; Baldwin, 1937 suppl., 5236-1.

⁶⁰⁵ Acts 1923, 1927; Burns 26-1501; Baldwin 5199.

⁶⁰⁶ Acts 1923; Burns 26-1503, 26-1504; Baldwin 5201, 5202.

⁶⁰⁷ Acts 1927; Burns 26-1512 to 26-1516; Baldwin 5190 to 5194.

⁶⁰⁸ Acts 1929; Burns 32-101; Baldwin 4875.

made on petition signed by 50 or more freeholders of the county, after publication of notice, a public hearing, and fixing a tax levy to pay for the same. Money may be raised by bond issue or temporary loan.⁶⁰⁹ A gift of lands to the county on condition that they be maintained as a public forest can be accepted only by a majority of the board of commissioners and county council in joint session.⁶¹⁰ Any aggrieved taxpayer may appeal to the circuit court.⁶¹¹

Swamp lands, saline lands, and meander lands, owned by the state, may be purchased by the county (acting through the board of commissioners) to be used for a public park or public forest, or both, on petition to the circuit court, appraisal of lands, and payment of value.⁶¹²

The board may permit county lands within one and one-half miles of a city or town to be used by such city or town for park purposes. Title to the land remains in the county.⁶¹³

The board, on petition of a majority of the voters in the county, may purchase land to be used for fairgrounds,⁶¹⁴ and thereafter sell such land or any part thereof, if it is no longer an eligible location for fairs.⁶¹⁵

The county may, separately or in conjunction with another county or city, acquire, maintain, and dispose of airports and appurtenances thereto.⁶¹⁶

Lands conveyed to the board of commissioners for the purpose of a public or private cemetery must be held by the board forever in trust for such purpose,⁶¹⁷ subject to the exceptions hereinafter stated. The board may convey any such public cemetery to any city or town within the vicinity thereof on application of such city or town,⁶¹⁸ and may convey any such public or private cemetery to a cemetery association on petition of a majority of the persons, being residents of the county and heads of families, whose dead are buried in the cemetery.⁶¹⁹

⁶⁰⁹ Acts 1929, 1935; Burns, 1939 suppl., 32-102; Baldwin, 1935 suppl., 4876.

⁶¹⁰ Acts 1929; Burns 32-105; Baldwin 4879.

⁶¹¹ Acts 1929, 1935; Burns, 1939 suppl., 32-109; Baldwin, 1935 suppl., 488-1.

⁶¹² Acts 1929; Burns 62-217 to 62-225; Baldwin 15260 to 15268.

⁶¹³ Acts 1911; Burns 26-1526 to 26-1531; Baldwin 5181 to 5186.

⁶¹⁴ Acts 1873; Burns 26-1517, 26-1518; Baldwin 5330, 5331.

⁶¹⁵ Acts 1873; Burns 26-1519; Baldwin 5332.

⁶¹⁶ Acts 1920 (Spec. Sess.); 1921; Burns 14-301 to 14-306; Baldwin 4021, 4023 to 4026.

⁶¹⁷ 1 Rev. Stat. 1852; Burns 25-1521; Baldwin 10600.

⁶¹⁸ Acts 1905; Burns 48-6003; Baldwin 12665.

⁶¹⁹ Acts 1881 (Spec. Sess.); Burns 21-210, 21-211; Baldwin 4626, 4627.

MISCELLANEOUS FUNCTIONS

The board of commissioners has power to make suitable rules and regulations covering traffic on roads maintained by the county, and to take steps necessary to enforce the rules. If such road is on a county line, the board of commissioners of the respective counties, in joint session, may make and enforce the rules.⁶²⁰ The county surveyor or county highway supervisor may fix the limits of the loads for any road, bridge, or culvert maintained by the county.⁶²¹

The constitution provides that improvement of agriculture shall be encouraged.⁶²² Allowances may be made out of the county's general fund to agricultural societies for the promotion of agricultural and horticultural interests.⁶²³ Shelby County has a county agricultural agent and a home demonstration agent, for the improvement of agriculture, home economics, and rural life.⁶²⁴

RECORDS SYSTEM

The records of Shelby County began with its creation in 1822. The establishment of each of the county offices and bureaus inaugurated their records which were kept in such fashion as the incumbents saw fit, following in the main the directions of the general assembly under the provisions for each office.

In 1909 the legislature established the state board of accounts, which formulates, prescribes, and installs systems of accounting and reporting which are uniform for every public office of the same class.⁶²⁵ Under this law some of the records were combined to eliminate separation, duplication, and overlapping. The board also permits the use of bound loose-leaf records in almost all cases where the records are typed. The quality of the paper and ink and the binding and rebinding practices are left to the judgement of the board of commissioners, except that a good quality is required.⁶²⁶

⁶²⁰ Acts 1919; Burns 36-706; Baldwin 8899. Interview of December 29, 1939 with T. A. Dicus, chairman of the state highway commission.

⁶²¹ Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8703. Interview of December 29, 1939 with T. A. Dicus, chairman of the state highway commission.

⁶²² Const. 1851, art. 8, sec. 1.

⁶²³ Acts 1877; Burns 15-314; Baldwin 5333.

⁶²⁴ See the essay entitled "County Agricultural Agent."

⁶²⁵ Acts 1909; Burns 60-202, 60-224; Baldwin 13855, 13875.

⁶²⁶ Interview of February 23, 1940 with E. P. Brennan, state examiner.

An act of 1937 provides that the board of commissioners may provide for the installation of a modern tax-accounting system in the offices of the treasurer and auditor, after a description thereof has been approved by the board of commissioners and certified to, and approved by, the state board of accounts.⁶²⁷ No system has been established in Shelby County under authority of this law.⁶²⁸

Whenever it may be necessary for the preservation of the records of the circuit court or any county office, it is the duty of the board of commissioners to order the officer in charge of such records to copy and transcribe the same.⁶²⁹

In the event of the loss or destruction, in whole or in part, of any of the county records, they must be replaced as follows: (a) The board of commissioners must send to the governor a certified list of such records furnished by the state, and he must order the proper state officer to replace them. (b) Records compiled in the county must be restored, if possible, from original documents by the county officer who had custody of the original records. (c) If impossible to reduplicate the old records, new records must be made on evidence taken from parties having knowledge of the facts concerned, by the proper officer or by a commissioner appointed by the board of commissioners for that purpose.⁶³⁰

In 1925 a law was passed permitting county officials, at their discretion, to turn over to the archives division of the Indiana State Library, for permanent preservation, any official books, records, documents, original papers, newspaper files, or printed books and material not in current use in their offices.⁶³¹ County officials have only occasionally availed themselves of this provision for permanent preservation of their old records.

An act of 1927 provided that deeds, mortgages, and other instruments may be recorded by a photographic process adopted by the board of commissioners.⁶³² The photographic method of recording has never been used generally by any Shelby County officer.

⁶²⁷ Acts 1937; Burns, 1939 suppl., 60-238 to 60-240; Baldwin, 1937 suppl., 15868-1 to 15868-3.

⁶²⁸ Interview of May 18, 1939 with E. P. Brennan, state examiner.

⁶²⁹ Acts 1877; Burns 26-634; Baldwin 5339.

⁶³⁰ 2 Rev. Stat. 1852, Acts 1865; Burns 57-101 to 57-124; Baldwin 1163 to 1191. Acts 1881; Burns 57-208 to 57-210; Baldwin 1165 to 1167. Acts 1893; Burns 57-125, 57-211 to 57-214; Baldwin 1197, 1192 to 1195.

⁶³¹ Acts 1925, 1937; Burns, 1939 suppl., 63-830; Baldwin, 1937 suppl., 10287.

⁶³² Acts 1927; Burns 49-3207; Baldwin 14667.

In 1937 the general assembly authorized the director of the state library, at his discretion, to make a copy, by photography or in any other way, of any official book, record, document, original paper, newspaper, or printed book or material in any county, city, or other public office, for preservation in the state archives. 'All public officials must permit such copies to be made.'⁶³³

In 1939 the legislature created in each county a commission of public records, consisting of the judge of the circuit court, the president of the board of commissioners, the county auditor, and the clerk of the circuit court. The commission must classify county records on the following basis: (a) Public records no longer of official or historical value; (b) public records which are of current official value and should be retained in the office where they are required to be filed; (c) public records of official value but which are consulted and used so infrequently that they are no longer of appreciable value to the officer with whom they are required to be filed; and (d) public records having historical value but no apparent official value. Records of class (a), which occupy space to no purpose in the offices and storerooms of the county, must, three years from the time they were originally filed (unless a law requires that they be kept for a longer period of time), be destroyed or otherwise disposed of, unless a law prohibits their destruction and unless such records are then in frequent use by the officer having charge of the office in which they are located. Records of class (b) will be retained in the office in which they were required to be filed. Records of classes (c) and (d) must be transferred to the state library three years after the date of the filing of such records, unless they are then in frequent use by the officer in charge of the office where they are located. In the event of such transfer, the records of class (c) will be added to the "archives" of the library while those of class (d) will constitute a part of the "collection" of such library.⁶³⁴

An act of 1935 created, in the executive department of the state, a commission on public records, consisting of the governor, secretary of state, state examiner, director of the state library, and director of the historical bureau." This

⁶³³ Acts 1925, 1937; Burns, 1939 suppl., 63-830; Baldwin, 1937 suppl., 10287.

⁶³⁴ Acts 1939; Burns, 1939 suppl., 49-3701 to 49-3710; Baldwin, 1939 suppl., 5492-1 to 5492-

10. See the essay entitled "Commission of Public Records."

act is almost identical with the act of 1939 creating a commission of public records in each county, except as to the provisions as to which officers shall be ex officio members of the commission.^{6 2 5}

3. HOUSING, CARE, AND ACCESSIBILITY OF THE RECORDS

A year after the organization of Shelby County, the board of commissioners meeting in special session ordered the erection of a temporary courthouse, "a good strong frame thirty three feet long in the clear and twenty feet wide in the clear two story high." A contract was to be let to the lowest bidder, who was to be paid upon the completion of the building and was to "have the Liberty of the timber on the donation."¹ William B. Burr was awarded the contract; the courthouse apparently was completed in the late spring of 1823, although no formal acceptance of the courthouse appears in the Commissioners' Record.²

On July 4, 1823 the board planned a more pretentious structure, authorizing the agent to receive proposals "for the Building of the Hull of a Brick court house";³ but nothing further was done that year. In September 1824 the board adopted the plans of John E. Baker and the following March advertised for bids.⁴ The contract for general construction was given to the firm of Bushfield and Major, for \$2,240, on May 3, 1825. Payment was made largely in promissory notes and county orders. Arthur Major later withdrew from the firm, and William Bushfield was authorized to carry on the work.⁵

Though it was specified in his contract that the courthouse was to be completed within three years, Bushfield was allowed an additional year, "Provided, the said William Bushfield will Pospone the collection of four several orders

^{6 2 5} Acts 1935; Burns, 1939 suppl., 63-1901 to 63-1910; Baldwin, 1935 suppl., 15400-1 to 15400-10. *Opinions of the Attorney General of Indiana, 1939*, p. 259.

¹ Commissioners' Record, A:21, 22.

² An article in the *Shelbyville Republican*, May 12, 1937, states that this courthouse was never built; cf. Commissioners' Record, A:27.

³ Commissioners' Record, A:38.

⁴ *Ibid.*, 79, 96. *History of Shelby County, Indiana* (Chicago, 1887), 280, 281.

⁵ Commissioners' Record, A:100, 156, 164.

which he holds on the County of Shelby, one year Longer than the Orders calls for."⁶ The board next undertook the finishing of the interior, authorizing Ovid Butler, later famous as an educator, to superintend the work. The exterior (the "hull") was accepted from Bushfield May 31, 1830, excepting the lightning rods and window glass, which Bushfield was to install by September.⁷ The courthouse was not fully completed until 1833, and further repairs were necessary to make it weatherproof.⁸

It was a two-story brick building, 60' by 50'; the court occupied the lower story, and the four rooms in the upper story were assigned to county officials.⁹ As usual with early courthouses, it was used for religious gatherings before churches were erected; the Indianapolis Presbytery met there in 1839, and passed a resolution of thanks to the board of commissioners for that privilege.¹⁰ The courthouse was used by the county until 1852, at which time a new public square was donated by Edward Toner and Jeremiah Bennett, and a new courthouse was erected.¹¹

Constructed by Edwin May at a cost of \$27,000, this was a brick and stone structure 100' by 75' and two stories in height. It was remodeled extensively in 1878, from the plans of R. P. Daggett; the contractors were the firm of Osborne, Carlisle & Jones, and the cost was approximately \$31,000 or \$4,000 more than the original cost. This building served until it was torn down early in 1936, preparatory to building the present courthouse.¹²

Plans for the first jail were laid simultaneously with those for the first courthouse, and the contract was let to Nathan Johnson. After much dickering, the jail was accepted by the county on January 8, 1825.¹³ A timber structure 20' square, it was two stories in height; the first story contained the "dungeon", while the second, which was not accessible from the first but was reached by an outside

⁶ *Ibid.*, 164.

⁷ *Ibid.*, 312, 314.

⁸ *Ibid.*, A:326, 350; A [B]:68, 82, 156.

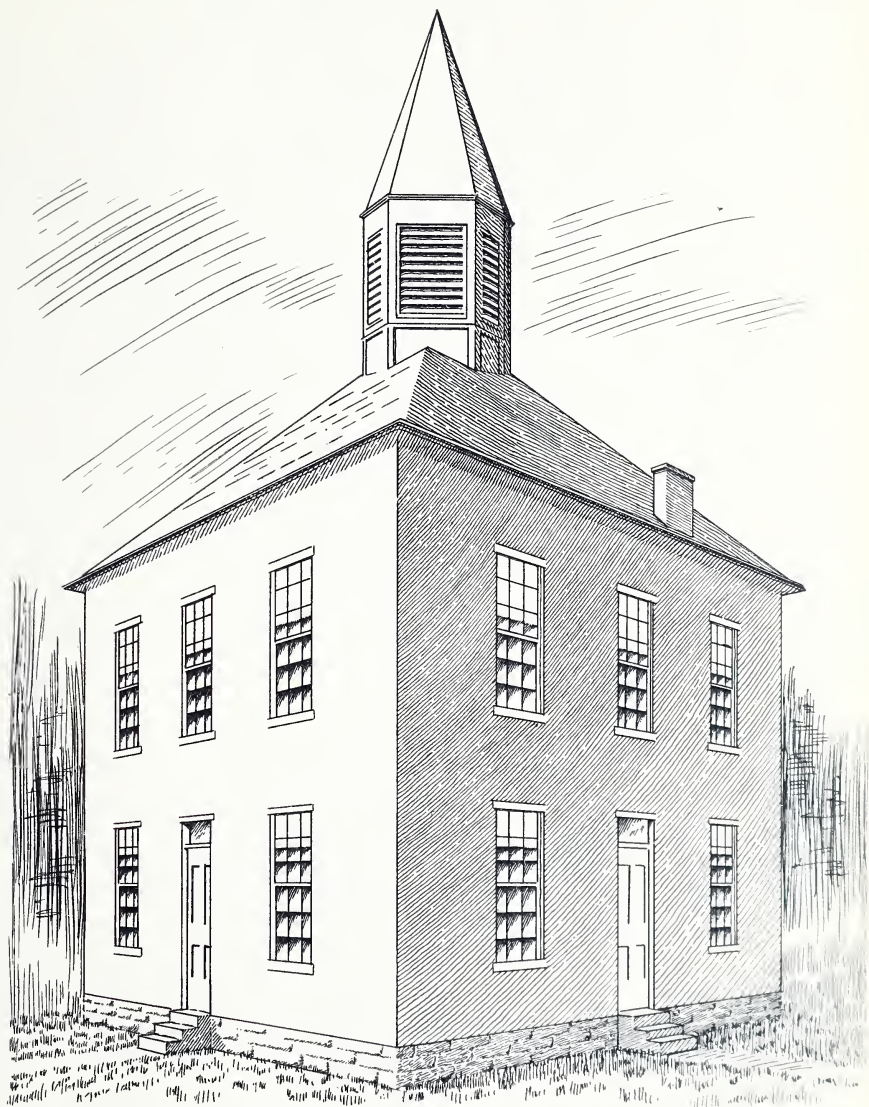
⁹ *Shelbyville Republication*, May 12, 1937. *History of Shelby County, Indiana* (1887), 281.

¹⁰ Commissioners' Record, C:28.

¹¹ *Shelbyville Republican*, May 12, 1937.

¹² *Ibid.* *History of Shelby County, Indiana* (1887), 281.

¹³ Commissioners' Record, A:23, 63, 81, 82, 91.



SHELBY COUNTY COURTHOUSE, 1830-1852

flight of stairs, was, presumably, the debtors' room.¹⁴ The jail was burned in February 1833, and a reward of \$50 was offered for the arrest of the guilty parties.¹⁵

Plans for the second jail were adopted by the board, who, in May 1833, contracted with John Barger for the construction, on his bid of \$680. A jailer's residence was added in 1835.¹⁶ By 1845, it was necessary to replace the jail, and in March of that year Michael West and Jacob Parrish undertook the contract for construction, raising a durable stone jail and sheriff's residence which were in use until 1872.¹⁷

The present jail, a two-story brick and stone structure, 95' by 50', was completed by autumn of that year. Victor & Springer were the contractors; the architect was D. A. Bohlen, who founded the firm of D. A. Bohlen & Son, architects of the present courthouse. The cost of the building was \$54,000.¹⁸

By 1935 the courthouse had become inadequate, and the commissioners debated whether to erect a new building or remodel the old one, finally deciding upon the former course. D. A. Bohlen & Son drafted the plans, which were approved October 22, 1935; on December 9, the contract for general construction was awarded to the Service Construction Company, at \$187,353. The old courthouse was razed early in 1936, and the present building was dedicated May 12 of the following year.¹⁹

The courthouse is a limestone structure 150' 8" north and south by 75' 8" east and west; its overall height is 48' 8". The front half of the building contains two floors (the clerk's office, circuit courtroom, and lobby—all on the second floor—are two stories in height); and the rear half contains three floors. The basement extends under the entire building. Flooring throughout the building is of composition tile, and walls and ceiling are plastered, with the exception of the vaults, which are of concrete throughout. Lighting and ventilation are adequate; the vaults are dry and reasonably clean and free from dust. A description of the housing of county records follows:

¹⁴ *Ibid.*, 23-25.

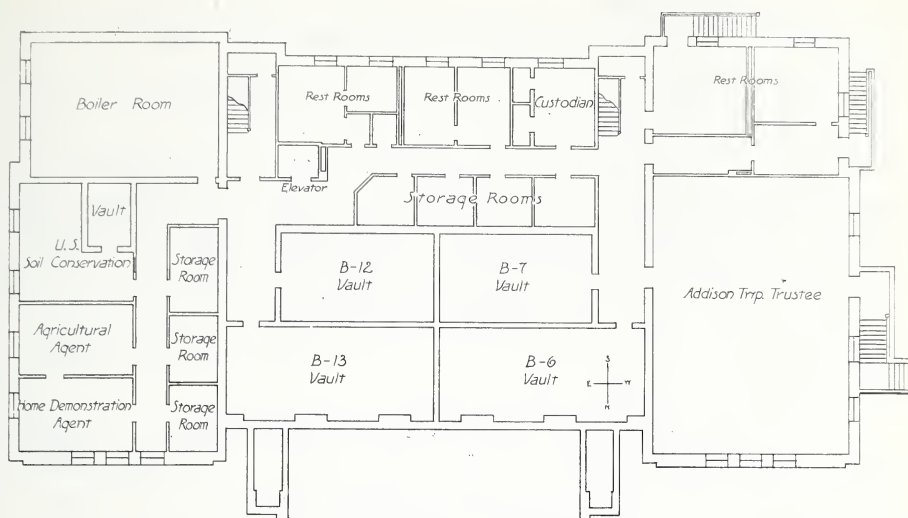
¹⁵ *Ibid.*, A [B]:82.

¹⁶ *Ibid.*, 105, 205.

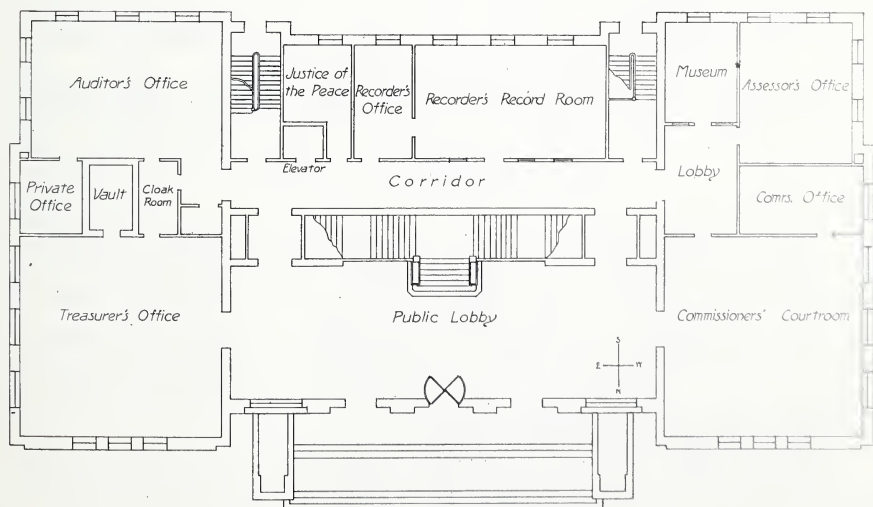
¹⁷ *History of Shelby County, Indiana* (1887), 280.

¹⁸ *Ibid.*

¹⁹ *Shelbyville Republican*, October 22 and December 10, 1935, May 12, 1937.



Basement - Shelby County Courthouse



1st Floor - Shelby County Courthouse

Board of Commissioners. Forty-one percent of the records are in the auditor's office, 2 percent in vault B-6, and 57 percent in vault B-12.

County Council. Eighty percent of the records are in the auditor's office and 20 percent in vault B-12.

Clerk of the Circuit Court. The clerk's office is situated at the southeast corner of the second floor and is two stories in height. Thirty-five feet square, it contains 1,433' of steel shelving. Eight hundred and eighty feet of volumes are housed on steel roller shelving, and 226' of unbound records are kept in steel file boxes and small steel drawers. Thirty-three percent of the clerk's records, with records of the circuit court and the coroner, are kept here.

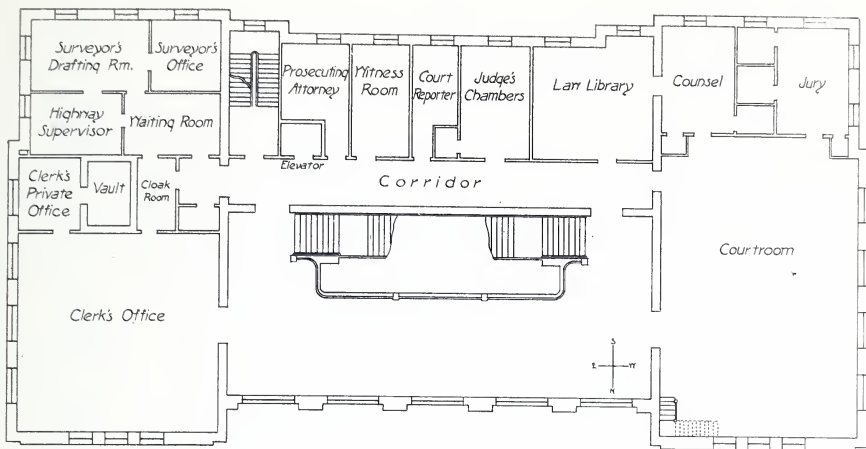
The vault opens into the clerk's private office, at the rear of the main office, and is 12' by 7'. It is equipped with 5 steel cabinets, in which are kept records of the circuit court, registration officer, and the three election boards. About 5' of volumes are kept on top of the cabinets.

Recorder. In the center of the west side of the first floor is the recorder's record room, whose dimensions are 33' by 22'. Approximately 530' of steel shelving are located along the north, south, and east walls and under counters in the center of the room. The shelving is largely of roller design, with one cabinet for file boxes. Five hundred and twenty-one feet of volumes and 9' of unbound records occupy almost all the shelving, but there is space for at least double the quantity of shelving which the room now contains. Forty-four percent of the records are housed here. Fifteen percent are kept in the recorder's office, which lies to the south of the record room. The remainder are in vault B-7.

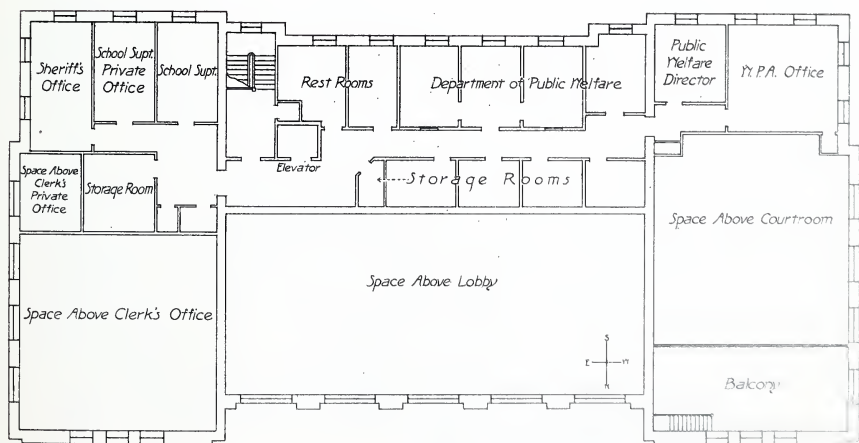
Circuit Court. Thirty-three percent of the records are in the clerk's office, 11 percent in vault B-6, and 56 percent in vault B-13. Less than 1 percent (14 volumes) are in the clerk's vault.

Sheriff. The sheriff's office, a room 23' by 11', lies at the southwest corner of the third floor. A small cabinet on the west wall of the room contains about 23' of roller shelving, all of which is occupied by volumes. Twenty-five percent of the records are kept in this room, 4 percent in the office of the county jail, 70 percent in vault B-6, and 1 percent (1 volume) in vault B-13.

Coroner. The coroner's records comprise 1 volume and 10 file boxes, of which the volume is kept at the professional office of the incumbent, Dr. Charles Kohlmeier, 33 West



2d Floor - Shelby County Courthouse



3d Floor - Shelby County Courthouse

Broadway, Shelbyville; 2 file boxes are in the clerk's office; and 8 file boxes are in vault B-13.

County Assessor. The assessor's office is located at the northwest corner of the first floor. Measuring 24' by 20' it contains 36' of shelving, occupied by volumes; a cabinet houses the unbound records. The present equipment is adequate for housing the records of the office, all of which are kept in this room, together with a portion of the auditor's records.

County Board of Review. Eighty percent of the records are in the auditor's office, and 20 percent are in vault B-7.

County Board of Tax Adjustment. The one record kept by the board is housed in the auditor's office.

Board of Finance. Sixty-seven percent of the records are in the auditor's office and 33 percent in vault B-12.

County School Fund Board. All the records are in the auditor's office.

Treasurer. The treasurer's office, at the southeast corner of the first floor, is identical in size with the clerk's office on the floor above. In the center of the room, under a counter, and along the west wall, are 350' of shelving, partially occupied by 213' of volumes and 60' of unbound records. The vault, adjoining the office to the west, is 12' by 7' and contains 400' of shelving, housing 370' of volumes. Six percent of the treasurer's records are in the office, 13 percent in the vault, 35 percent in vault B-6, and nearly 46 percent in vault B-7. Two file boxes—less than 1 percent—are in the auditor's office.

Auditor. The auditor's office, situated at the southwest corner of the first floor, is 33' by 24'. Equipment for housing records comprises steel roller shelving for volumes, steel cabinets for file boxes, and steel filing cabinets for other unbound records; the total quantity of shelving is 515'. Two hundred and twenty-nine feet of volumes and 234' of unbound records are kept here. These comprise 11 percent of the auditor's records and portions of the records of the board of commissioners; the county council; the boards of review, tax adjustment, and finance; the school fund board; the treasurer; and the department of public welfare. Six percent of the auditor's records are in the assessor's office; less than 1 percent (2 file drawers) in the treasurer's office, 52 percent in vault B-6, 8 percent in vault B-7, 20 percent in vault B-12, and 3 percent in vault B-13.

Registration Officer. Ninety-eight percent of the record's are in the clerk's vault and 2 percent in vault B-13.

Board of Primary Election Commissioners, County Board of Canvassers, County Board of Election Commissioners. The records of these boards are combined and consist of 1 volume shared by all three, and 1 cabinet, 3 file boxes, and 1 file drawer shared by the first and last named. The volume and file drawer are in the clerk's vault, and the three file boxes are in vault B-13.

County Board of Education. The record kept by this board is in the office of the superintendent of schools.

County Superintendent of Schools. A room 17' by 11' on the west side of the third floor is occupied by the superintendent of schools. Records are housed in 3 filing cabinets and 3 file boxes. The present equipment is adequate. Sixty-nine percent of the superintendent's records are kept here, 20 percent in the storage room across the hall, and 11 percent in vault B-6.

County Health Officer. The records at present are kept in the office of the incumbent, at Waldron.

County Department of Public Welfare. Three rooms on the west side of the third floor house the office of the department of public welfare; of these, two, rooms 303 and 304, house records of the board. Room 303 is divided by partitions into three smaller rooms, each 15' by 10'. The south room contains 1 filing cabinet of unbound records; the center room, 4 filing cabinets; and the north room, 1 filing cabinet, in which are housed 5 volumes, besides unbound records. A filing cabinet in room 304, which likewise measures 15' by 10', contains unbound records and 10 bound volumes. The volumes would be more readily accessible if shelving for them were installed; aside from this, the present equipment is adequate. These rooms contain 94 percent of the records of the department; the remaining 6 percent are in the auditor's office.

Surveyor. The surveyor's office lies on the west side of the second floor and measures 13' x 12'. Records are housed in a steel cabinet, which contains about 4' of volumes and a quantity of maps and plans. The drafting room, which adjoins the office to the south, lying at the southwest corner of the second floor, is 20' by 12'. A steel cabinet contains 2' of volumes, as well as maps and plans. The office contains 75 percent of the records and the drafting room, 10 percent. The remainder are in vault B-12.

County Highway Supervisor. The highway supervisor's office lies directly east of the surveyor's drafting room and measures 16' by 11'. All the records—comprising 3 volumes and 2' of unbound records—are kept in a steel filing cabinet. The present equipment is adequate and will permit expansion of the records.

County Agricultural Agent. The agricultural agent's office, a room 20' by 13', is situated in the south side of the basement. Equipment for housing records consists of 4 four-drawer filing cabinets, of which 9 drawers are occupied by records. All the records of the agricultural agent are housed in this room.

Basement Vaults. Older records are housed in four vaults—B-6, B-7, B-12, and B-13—which occupy the central portion of the basement. B-6 and B-13 are 36' by 15', while B-7 and B-12 are 27' by 15'. All provide fairly satisfactory accommodations for users of the records, and all are fairly well lighted. B-6 contains 585' of steel upright shelving, carrying a portion of 727' of volumes and 70' of unbound records in cardboard file boxes and a wooden carton. The volumes which cannot be accommodated by the shelving are stacked on top of it. This vault contains records of the board of commissioners, the clerk, the circuit court, the sheriff, the treasurer, the auditor, and the superintendent of schools.

B-7 is equipped with 882' of steel shelving in three designs: Upright and roller for volumes, and cabinet style for file boxes. Five hundred feet of volumes and 20' of unbound records occupy a portion of the shelving. Space for volumes is adequate, but more shelving is needed for file boxes. Here are housed records of the recorder, the board of review, the treasurer, and the auditor.

B-12 contains 342' of steel upright shelving, on which are housed 150' of volumes, 30' of unbound records in cardboard cartons, 10' of loose papers, and 9 cartons of unbound records. A wooden cabinet contains 10 drawers of maps and blueprints. The present shelving would be adequate for the quantity of records housed in the room if the records were properly arranged. Records of the board of commissioners, the county council, the board of finance, the auditor, and the department of public welfare are kept here.

In B-13 are 1089' of shelving, varying in design from steel roller to wooden cabinet style, on which are 304' of volumes and 468' of unbound records in wooden, steel, and cardboard file boxes. About 169' of unbound records in cardboard file boxes and a wooden carton are stacked on the floor, although there is ample space on the shelving to house them. The present equipment would be adequate if records were properly arranged. This vault contains records of the clerk, the circuit court, the sheriff, the coroner, the auditor, the registration officer, and the election boards.

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5. ABBREVIATIONS, SYMBOLS, AND EXPLANATORY NOTES

The Style Manual of the United States Government Printing Office is the authority followed herein.

agr. agt.	agricultural agent('s)
alph.	alphabetical(ly)
App.	<i>Appellate Court Reports</i> (State of Indiana)
approx.	approximate(ly)
arr.	arranged
art.	article
assr.	assessor('s)
aud.	auditor('s)
bd.	beard
bdl.	bundle(s)
bk.	book
Blackf.	<i>Blackford Reports</i> (Supreme Court of Indiana)
bldg.	building
bsmt.	basement
c	copyright (before date)

C. C.	County Courthouse
cf.	compare
ch.	chapter
chron.	chronological(ly)
cir. ct.	circuit court
clk.	clerk('s)
comr.	commissioner(s')
Const.	Constitution of Indiana
cor.	coroner(s)
ct. rept.	court reporter
diam.	diameter
et	and
et al.	et alii--and others
et seq.	et sequentia--and following
ex rel.	ex relatione--upon relation of. (Designates the person at whose instance the state or a public officer is acting)
f. b.	file box(es)
f. d.	file drawer(s)
fl.	floor
hdw.	handwritten
H. J.	House Journal (Indiana House of Representatives)
hlth. offr.	health officer('s)
hwy. sup.	highway supervisor('s)
ibid.	ibidem (same reference as that immediately foregoing)
Ind.	Indiana: <i>Indiana Reports</i> (when preceded by the volume number, reference is to the official state supreme court reports)
insp.	inspector
juv.	juvenile
lb.	pound
loc. cit.	loco citato--in the place cited. (After the name of book or article, refers to previous page (s) cited in the same work)
mi.	mile
n.	note
n. d.	no date
N. E.	North Eastern Reporter (judicial decisions). 2d-Second series.
no., nos.	number(s)
num.	numerically
off.	office

offr.	officer
op. cit.	<i>opere citato</i> -in the work cited. (After author's name, refers to previous work cited under his name)
p., pp.	page(s)
<i>passim</i>	here and there (referring to references too numerous to enumerate)
<i>pro tem.</i>	<i>pro tempore</i>
prob. comr.	probate commissioner
pros. atty.	prosecuting attorney('s)
pt.	part
ptd.	printed
pub. welf.	public welfare
pvt.	private
rec.	record
recr.	recorder('s)
reg.	register
Rev. Laws	<i>Revised Laws of the State of Indiana</i>
Rev. Stat.	<i>Revised Statutes of the State of Indiana</i>
rm.	room
sec., secs.	section(s)
sher.	sheriff('s)
<i>sic</i>	thus (indicating expression, misspelling, etc., is the same as in the original)
S. J.	<i>Senate Journal</i> (Indiana Senate)
Spec. Sess.	Special Session
sta.	station
stat.	statutes
stor.	storage
sub-bsmt.	sub-basement
suppl.	supplement
supr. ct.	superior court
supt.	superintendent('s)
surv.	surveyor('s)
treas.	treasurer('s)
twp., twps.	township(s)
U. S.	United States
U. S. C.	<i>United States Code</i>
v.	versus
vol., vols.	volume(s)
vt.	vault
'	foot, feet
"	inch(es) (omitted after dimensions in entries)
x	by, in dimensions

EXPLANATORY NOTES

The inventory of the records of each branch of the county government is preceded by an essay explaining its legal status and functions.

In some instances, records shown as being legally required do not appear in the inventory. Such omissions reflect the record situation and are not the result of an inadequate survey.

Entries are grouped according to a functional classification, with headings and subheadings according to relative functions and with cross-references to allied subjects. Every entry has two parts or paragraphs: Title and description. Occasionally an entry has a third (cross-reference) paragraph.

I. The title paragraph consists of:

Entry number. The entries are numbered consecutively.

Exact title (in capitals and small capitals) as it appears on the record. Titles enclosed in brackets are supplied by the Historical Records Survey, if the volume or file bears no title. Supplementary titles (in capitals and lower-case letters), enclosed in brackets, are also supplied where it is necessary to explain the types of records more fully, or where the exact title born by the record is incorrect, misleading, or nondescriptive.

Dates of the period covered by the record, showing inclusive beginning and ending dates by years only. Missing records are indicated by a break in the dates. A dash in place of an ending date denotes an open record. In entries, where one or more records are replaced by another record, the month and day are given for the discontinued record. In entries of open records, when the last entry is not current, a note follows: "Last entry"—with day, month, and year. Where no statement is made that the record was discontinued at the last date shown in the entry, it could not be definitely established that such was the case. Where no comment is made on the absence of prior or subsequent records, no definite information could be obtained.

Quantity and labeling, given in chronological order wherever possible.

Variations in title. Current or most recent title used as entry title; if former titles vary, they are shown.

Changes in keeping records. Occasionally the county record is discontinued or is kept by some other authority—state or other county office.

II. The description consists of:

A statement of the nature, contents, and purpose of the record, with a summary of the column headings or subjects treated. The current record, except as otherwise noted, is described. The contents over a long period of years may themselves vary; therefore, over the entire period the description may vary to some degree. In the description of map and plat records, the scale and the names of author and publisher are given whenever available. No mention thereof denotes that these data are not known.

Method of arrangement: Chronological, topical, or other system.

Method of indexing, pertaining to self-contained indexes. Separate indexes are noted also, with a cross-reference thereto.

Nature of recording: Handwritten, typewritten, or printed. Modern records are almost exclusively in printed form, filled in by hand or typewritten as stated in entry. Maps and plats are drawn, blueprinted or printed.

Condition. Omitted if good or excellent.

Number of pages averaged for a series.

Size of volumes in the order of height, width, and thickness, averaged for a series; of file boxes and file drawers, in the order of height, width, and depth. It is given in inches in all instances; hence the inch sign is omitted.

Location. The place of custody (the room in which the records are located) is in the courthouse unless another building is specified in the entry. The locations given are those effective at the time the survey was made.

III. Cross-references:

Title-line cross-references are used to show continuity of a record series which has been kept separately for a period and with other records for different periods of time. An example is that in the title line of entry 4: "1937- in Petitions, entry 3." They are also used in all artificial entries, those set up to cover records which must be shown separately under their proper office even though they are kept in files, or records appearing elsewhere in the inventory, as, for example, the title-line cross-reference in entry 369, "In [General Election Record], entry 373." In both instances the description of the master entry or entry of miscellaneous contents shows the title and number of the entry in which the record is described (the entry from which the title-line cross-reference is made), as, for example, in entry 2: "Also contains: Liquor License Bond Record, 1822-65, entry 8." Dates shown

in such a cross reference are only for the part or parts of the record contained therein, and are shown only when they vary from those of the master entry.

Separate third-paragraph cross references from entry to entry, and *See also* references with subject headings or subheadings are used to guide the reader to prior, subsequent, or related records which are not parts of the same series.

PART B. COUNTY OFFICES AND THEIR RECORDS

I. BOARD OF COMMISSIONERS

LEGAL STATUS

The board of commissioners of Shelby County exists under the mandatory provisions of an act of 1852. The board is composed of three members¹ elected for three-year terms commencing in different years.² The county is divided into three districts; and one commissioner is elected from the residents of each district by the voters of the whole county.³ A member receives a certificate of election from the clerk of the circuit court⁴ and remains in office until his successor has been elected and qualified.⁵ Each commissioner must be an elector of the county at the time of his election; must have been an inhabitant thereof during the preceding year;⁶ must reside within the county after his election; must not hold any other lucrative office;⁷ and must take an oath to support the state and federal constitutions and faithfully discharge his duties.⁸ A member receives a regular salary of \$380 per year,⁹ plus six cents for each mile necessarily traveled by him in the conduct of county business.¹⁰

¹ 1 Rev. Stat. 1852, Acts 1929; Burns 26-601; Baldwin 5215.

County commissioners are not constitutional officers. *State ex rel. Workman v. Goldthait* (1909), 172 Ind. 210, 87 N. E. 133.

² 1 Rev. Stat. 1852; Burns 26-603; Baldwin 5217. Acts 1885; Burns 26-604; Baldwin 5218.

³ 1 Rev. Stat. 1852; Burns 26-602; Baldwin 5216.

⁴ Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin 13095, 13096.

The members are not commissioned by the governor. *Ibid.*

⁵ Const. 1851, art. 15, sec. 3. Acts 1885; Burns 26-604; Baldwin 5218.

⁶ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁷ Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6.

⁸ Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 26-605; Baldwin 5219.

⁹ Acts 1933; Burns 49-1004; Baldwin 7534.

¹⁰ Acts 1933; Burns 49-1013; Baldwin 7543.

For sufficient legal grounds any county commissioner may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹¹ If a commissioner is convicted of a felony the judgment of conviction must declare his office vacant.¹²

Any vacancy of the office of county commissioner, or any prospective vacancy caused by death or resignation before time for commencement of the term of a commissioner-elect, is filled at any time through appointment by the commissioners in office. In the event of a tie vote the auditor casts the deciding vote.¹³

Since the organization of Shelby County in 1822 the general administrative control of county matters has been vested in a board of commissioners, composed of three members (individually known as county commissioners) elected by the voters of the whole county from the residents of three commissioners' districts, subject to exceptions herein stated. From September 6, 1824 until August 6, 1827 county business was transacted by a board of justices composed of all the justices of the peace in the county. Since 1899 many powers of a fiscal nature (including the making of tax levies) previously exercised by the board of commissioners have been vested exclusively in the county council.¹⁴

FUNCTIONS AND RECORDS

The board of commissioners is a body corporate and politic by the name and style of "The Board of Commissioners of the County of Shelby." As such, and in such name, the board may sue and be sued. It possesses duties, rights, and

¹¹ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052. *Bateman v. State* (1938), 214 Ind. 138, 14 N. E. (2d) 1007.

¹² Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹³ 1 Rev. Stat. 1852, Acts 1929; Burns 26 601; Baldwin 5215.

¹⁴ Acts 1816-17, ch. 15. Acts 1817-18 (general), ch. 41. Acts 1821-22, ch. 31, secs. 1, 2. Rev. Laws 1824, chs. 15, 16. Acts 1826-27, ch. 13. Rev. Laws 1831, ch. 20. Rev. Stat. 1838, ch. 21. Rev. Stat. 1843, ch. 7, art. 1. 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 17, 18, 21, 22. Acts 1899; Burns 26-501 to 26-551; Baldwin 5365 to 5414. 1 Rev. Stat. 1852; Burns 26-601 to 26-639; Baldwin 5215 *et seq.* *Snider v. State ex rel. Leap* (1934), 206 Ind. 474, 190 N. E. 178. See the essay entitled "County Council."

powers incident to corporations.¹⁵ In legal contemplation the board is the county.¹⁶

The board of commissioners may purchase and sell property for the county;¹⁷ has control of the county property;¹⁸ has charge of the purchase of materials and supplies needed by the county officials;¹⁹ has charge of the construction and maintenance of roads,²⁰ bridges, culverts,²¹ waterways,²² and county buildings;²³ has the power of eminent domain;²⁴ provides office rooms for county officers;²⁵ prepares annual budget estimates;²⁶ may authorize tax refunds;²⁷ allows claims against the county;²⁸ issues bonds;²⁹ may establish or abolish townships and election precincts, and change the

¹⁵ 1 Rev. Stat. 1852; Burns 26-606; Baldwin 5220.

¹⁶ *Dice v. County Board of Finance* (1934), 99 Ind. App. 405, 192 N. E. 770.

¹⁷ Acts 1899; Burns 26-534; Baldwin 5399. Acts 1907; Burns 26-2008; Baldwin 5107. Acts 1899; Burns 28-250 to 28-257; Baldwin 6602 to 6609.

¹⁸ 1 Rev. Stat. 1852. Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236.

¹⁹ Acts 1899; Burns 26-535; Baldwin 5400. Acts 1899, 1903, 1933; Burns 26-536; Baldwin 5401.

²⁰ Acts 1905, 1907; Burns 36-201 *et seq.*; Baldwin 8756 *et seq.* Acts 1919; Burns 36-301 *et seq.*; Baldwin 8859 *et seq.* Acts 1907; Burns 36-401 *et seq.*; Baldwin 8992 *et seq.* Acts 1919; Burns 36-501 *et seq.*; Baldwin 8879 *et seq.* Acts 1933; Burns 36-1101 *et seq.*; Baldwin 8699 *et seq.*

²¹ Acts 1905, 1907, 1929; Burns 36-1901 *et seq.*; Baldwin 9226 *et seq.* Acts 1905, 1911, 1913; Burns 36-2001 *et seq.*; Baldwin 9191 *et seq.* Acts 1920 (Spec. Sess.); Burns 36-2404; Baldwin 9154.

The board may purchase toll bridges. Acts 1861; Burns 26-1415; Baldwin 5329.

²² Acts 1883; Burns 26-1401 to 26-1412; Baldwin 5313 to 5323. Acts 1873; Burns 26-1413, 26-1414; Baldwin 5291, 5292. Acts 1905; Burns 68-101 to 68-107; Baldwin 16324 to 16330.

²³ 1 Rev. Stat. 1852; Burns 26-624; Baldwin 5240. Acts 1907; Burns 26-2002, 26-2004; Baldwin 5101, 5103.

²⁴ Acts 1937; Burns, 1939 suppl., 26-640; Baldwin, 1937 suppl., 5236-1. Acts 1899; Burns 26-2101 to 26-2106; Baldwin 5109 to 5114. Acts 1919; Burns 36-303; Baldwin 8861. Acts 1935; Burns, 1939 suppl., 36-711; Baldwin, 1925 suppl., 8961-1.

²⁵ 1 Rev. Stat. 1852; Burns 26-624; Baldwin 5240. Acts 1899; Burns 26-625; Baldwin 5241. 1 Rev. Stat. 1852; Burns 49-3202; Baldwin 5470.

²⁶ Acts 1899; Burns 26 516, 26-519; Baldwin 5380, 5383.

Estimates for road maintenance are under control of the board and may be changed without the approval of the surveyor or county highway supervisor. *Bateman v. State* (1938), 214 Ind. 138, 14 N. E. (2d) 1097.

²⁷ Acts 1919, 1927, 1929; Burns 64-2819 to 64-2821; Baldwin 15881, 15882, 15885.

²⁸ 1 Rev. Stat. 1852, Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1879 (Spec. Sess.); Burns 26 807; Baldwin 5256.

²⁹ 1 Rev. Stat. 1852, Acts 1869; Burns 26-1001 *et seq.*; Baldwin 5242 *et seq.*

boundary lines thereof;³⁰ provides rooms, booths, and ballot boxes for elections, and may provide voting machines;³¹ may establish and maintain libraries³² and hospitals;³³ may establish a workhouse and employ a superintendent thereof;³⁴ inspects the county jail³⁵ and poor asylum;³⁶ may prescribe regulations governing the work of prisoners outside the jail;³⁷ maintain standards of weights and measures;³⁸ may order the establishment of a permanent meridian line in the county;³⁹ may regulate traffic on the county highways;⁴⁰ may enforce regulations of the Administrative Building Council of Indiana;⁴¹ may determine the question of public utility of a levee petitioned for by a levee association;⁴² may make special assessments to pay the cost of construction of roads;⁴³ may subscribe for newspapers printed in the county and require the recorder to preserve copies thereof;⁴⁴ may reproduce mutilated or decayed records;⁴⁵ may administer oaths, enforce its orders, and punish for contempt;⁴⁶ may authorize the payment of bounties;⁴⁷ may offer rewards in case of murder or

³⁰ Townships. Acts 1859, 1939; Burns, 1939 suppl., 26-701; Baldwin, 1939 suppl., 16055. Acts 1919; Burns 26-705; Baldwin 16059.

Election precincts. Acts 1889, 1907; Burns 29-801 *et seq.*; Baldwin 7089 *et seq.* Acts 1920 (Spec. Sess.); Burns 29-901; Baldwin 7091.

³¹ Acts 1920 (Spec. Sess.); Burns 29-909; Baldwin 7154. Acts 1889; Burns 29-1101; Baldwin 7101. Acts 1897; Burns 29-1121; Baldwin 7135.

³² Acts 1917, 1921, 1927; Burns 41-510; Baldwin 10321.

³³ Acts 1903; Burns 22-3201; Baldwin 4507.

³⁴ Acts 1879 (Spec. Sess.); Burns 13-1101, 13-1102; Baldwin 13759, 13760.

³⁵ Acts 1909; Burns 13-1008; Baldwin 13460.

³⁶ 1 Rev. Stat. 1852, Acts 1899; Burns 52-205; Baldwin 13373.

³⁷ Acts 1905; Burns 9-2229; Baldwin 2336.

³⁸ 1 Rev. Stat. 1852; Burns 69-101.

³⁹ Acts 1895; Burns 49-3307; Baldwin 5513.

⁴⁰ Acts 1919; Burns 36-706; Baldwin 8899.

⁴¹ Acts 1923; Burns 20-401, 20-408; Baldwin 4603, 4610.

⁴² Acts 1913, 1927; Burns 27-915; Baldwin 10241.

⁴³ Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1412 to 36-1414; Baldwin 8915 to 8917.

⁴⁴ 1 Rev. Stat. 1852; Burns 26-626 to 26-628; Baldwin 5285 to 5287.

⁴⁵ Acts 1877; Burns 26-634, 26-635; Baldwin 5339, 5340.

⁴⁶ 1 Rev. Stat. 1852; Burns 26-619; Baldwin 5233.

⁴⁷ 1 Rev. Stat. 1852, Acts 1875, 1883, 1911; Burns 26-1101 to 26-1103, 26-1105, 26-1106; Baldwin 5288, 3802, 5289, 5293, 5294.

lynching;⁴⁸ examines the treasurer's quarterly reports,⁴⁹ and makes annual settlements with him;⁵⁰ annually prepares a statement of the receipts and disbursements of the previous year, and causes it to be published and posted;⁵¹ may approve (subject to further approval by the state board of accounts) the installation of a modern tax-accounting system in the offices of the auditor and treasurer;⁵² may authorize county officers to use a photographic process for recording deeds, mortgages, and other instruments;⁵³ may license ferries⁵⁴ and fix ferry rates;⁵⁵ may authorize elections for the incorporation of towns;⁵⁶ may authorize a town to annex unplatted lots;⁵⁷ may specify "what kind of animals shall be allowed to pasture or run at large on the uninclosed lands or public commons" within the bounds of any township in the county;⁵⁸ is authorized to appoint a county highway supervisor,⁵⁹ a county health officer,⁶⁰ a public health nurse,⁶¹ a county inspector of weights and measures,⁶² food inspectors (beef, flour, pork, salt, and hay),⁶³ an appraiser of state lands,⁶⁴

⁴⁸ Acts 1899; Burns 26-1104; Baldwin 5250.

⁴⁹ Acts 1895, 1913; Burns 49-1402; Baldwin 7578.

⁵⁰ Acts 1859; Burns 26-531; Baldwin 5395. 1 Rev. Stat. 1852; Burns 49-3116; Baldwin 5563.

⁵¹ Acts 1839; Burns 26-546; Baldwin 5411.

⁵² Acts 1977; Burns, 1939 suppl., 60-238 to 60-240; Baldwin, 1937 suppl., 15863-1 to 15863-3.

⁵³ Acts 1927; Burns 49-3207; Baldwin 14667.

⁵⁴ Acts 1881 (Spec. Sess.), 1911; Burns 36-2501 to 36-2504; Baldwin 7676 to 7679. 1 Rev. Stat. 1852, Acts 1855; Burns 36-2601 to 36-2607; Baldwin 7691 to 7697. Acts 1881 (Spec. Sess.), 1897; Burns 36-2608 to 36-2618; Baldwin 7698 to 7708. Acts 1917, 1937; Burns, 1939 suppl., 42-201; Baldwin, 1937 suppl., 10443.

⁵⁵ Acts 1881 (Spec. Sess.), 1897; Burns 36-2615; Baldwin 7705.

⁵⁶ Acts 1905; Burns 48-105; Baldwin 11228.

⁵⁷ Acts 1909; Burns 48-707, 48-708; Baldwin 11340, 11341.

⁵⁸ 1 Rev. Stat. 1852, Acts 1879 (Spec. Sess.); Burns 16-101, 16-102; Baldwin 5028, 5029.

⁵⁹ Acts 1933; Burns 36-1110; Baldwin 8708. See the essay entitled "County Highway Supervisor."

⁶⁰ Acts 1935; Burns, 1939 suppl., 35-118; Baldwin, 1935 suppl., 8404-1. See the essay entitled "County Health Officer."

⁶¹ Acts 1935; Burns, 1939 suppl., 35-123; Baldwin, 1935 suppl., 8404-6. See the essay entitled "Public Health Nurse."

⁶² Acts 1911, ch. 363, sec. 3. Acts 1913, ch. 161, sec. 1. Acts 1925; Burns 69-104, 69-107; Baldwin 16325, 16338.

⁶³ Acts 1818-19, ch. 15, sec. 1. Rev. Laws 1824, ch. 109, sec. 4. Rev. Laws 1831, ch. 50, secs. 1-6. Rev. Stat. 1838, ch. 53. Rev. Stat. 1843, ch. 27. 1 Rev. Stat. 1852; Burns 35-1901; Baldwin 9468.

⁶⁴ Acts 1889; Burns 62-207; Baldwin 15273.

certain justices of the peace,⁶⁵ five members of a county planning commission,⁶⁶ and three members of a miners' examination board;⁶⁷ may employ a county attorney,⁶⁸ tax ferrets,⁶⁹ a civil engineer (if the surveyor is not a competent civil engineer),⁷⁰ a county veterinarian,⁷¹ a physician for poor persons (in county institutions) and prisoners;⁷² may authorize the appointment of deputies and assistants of county officers;⁷³ approves the official bonds⁷⁴ of the auditor,⁷⁵ clerk of the circuit court,⁷⁶ coroner,⁷⁷ county highway supervisor,⁷⁸ recorder,⁷⁹ sheriff,⁸⁰ surveyor,⁸¹ and treasurer;⁸² may remove a delinquent county treasurer after suit on his official bond has been commenced;⁸³ and may appoint successors in case of any vacancy in the offices of auditor, clerk of the circuit court, coroner, county assessor, surveyor, sheriff, treasurer,⁸⁴ and any officers originally appointed to office by the board of commissioners.⁸⁵ Appointments made by the board are certified by the auditor.⁸⁶

⁶⁵ Acts 1891, 1923; Burns 5-109, 5-110; Baldwin 1833, 1834.

⁶⁶ Acts 1935; Burns, 1939 suppl., 26-2301; Baldwin, 1935 suppl., 5205-1.

⁶⁷ Acts 1923; Burns 46-1001; Baldwin 11073.

⁶⁸ Acts 1917; Burns 10-3103; Baldwin 822. Acts 1899; Burns 26-519; Baldwin 5383.

⁶⁹ Acts 1905; Burns 64-2830; Baldwin, 1935 suppl., 15696-1.

⁷⁰ 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

⁷¹ Acts 1915; Burns 16-701; Baldwin 3851.

⁷² 1 Rev. Stat. 1852, ch. 3, sec. 8. Acts 1859, ch. 5, sec. 1. Acts 1899; Burns 26-533; Baldwin 5398. *Lamar v. Board of County Comrs.* (1892), 4 Ind. App. 191, 30 N. E. 912.

⁷³ Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532. Acts 1937; Burns, 1939 suppl., 49-3330; Baldwin, 1937 suppl., 5511-1.

⁷⁴ Acts 1851-52; Burns 49-123; Baldwin 13093.

⁷⁵ Acts 1889; Burns 49-3003; Baldwin 5417.

⁷⁶ Acts 1875; Burns 49-2703; Baldwin 1430.

⁷⁷ 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

⁷⁸ Acts 1925; Burns 69-106; Baldwin 16337.

⁷⁹ Acts 1851-52; Burns 49-123; Baldwin 13093. 1 Rev. Stat. 1852, Acts 1901; Burns 49-3201; Baldwin 5469.

⁸⁰ Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852, Acts 1937; Burns, 1939 suppl., 49-2801; Baldwin, 1937 suppl., 5493.

⁸¹ Acts 1913; Burns 49-3302 to 49-3304; Baldwin 5505 to 5507.

⁸² 1 Rev. Stat. 1852, Acts 1865, 1919; Burns 49-3101; Baldwin 5548.

⁸³ 1 Rev. Stat. 1852; Burns 49-3115; Baldwin 5562.

⁸⁴ 1 Rev. Stat. 1852; Burns 49-405; Baldwin 13104. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

⁸⁵ See the authorities cited above for the appointment of officers by the board of commissioners.

⁸⁶ 1 Rev. Stat. 1852; Burns 49-204; Baldwin 13098.

The members of the board of commissioners are ex officio members of the board of finance.⁸⁷ The president of the board of commissioners is an ex officio member of the commission of public records.⁸⁸

Before 1909 the board of commissioners audited the books and accounts of all officers handling county funds. Since 1909 such duties have been performed by the state examiner.⁸⁹ Formerly the board of commissioners granted poll tax exemptions;⁹⁰ annually awarded scholarships to Indiana University (1834 to 1919) and Purdue University (1877 to 1935);⁹¹ appointed tobacco inspectors;⁹² and received reports of the circuit judge concerning his examination of the office of the clerk of the circuit court.⁹³

The board of commissioners has always had the power to establish, construct, and maintain roads. From 1879 until 1913 the board constituted, ex officio, a board of turnpike directors for the management and control of all free turnpikes in the county. The board divided the county into three districts, and each director had personal supervision of one district.⁹⁴ Since 1913 the surveyor, county highway superintendent (1913 to 1933), and county highway supervisor (1933 to date), acting under the control of the board of commis-

⁸⁷ Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50. See the essay entitled "Board of Finance."

⁸⁸ Acts 1939, ch. 91, sec. 1. See the essay entitled "Commission of Public Records."

⁸⁹ 1 Rev. Stat. 1852, Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1897; Burns 26-636; Baldwin 5237. Acts 1895; Burns 49-1409; Baldwin 7584. 1 Rev. Stat. 1852; Burns 49-3110; Baldwin 5555. Acts 1909; Burns 60-211; Baldwin 13862. Interview of May 18, 1939 with E. P. Brennan, state examiner.

⁹⁰ 1 Rev. Stat. 1852, ch. 20, sec. 30 (repealed by Acts 1919, ch. 59, sec. 2). *Opinions of the Attorney General of Indiana, 1936*, p. 83.

⁹¹ Acts 1833-34, ch. 17. Rev. Stat. 1838, ch. 21, secs. 33, 34. Rev. Stat. 1843, ch. 7, sec. 34. 1 Rev. Stat. 1852, ch. 114, sec. 10. Acts 1877 (Spec. Sess.), ch. 29, secs. 1, 2. Acts 1919, ch. 185, sec. 1. Acts 1929, ch. 2, sec. 1. Acts 1935, ch. 184, secs. 1, 2.

⁹² Acts 1816-17, ch. 11, sec. 4. Rev. Laws 1824, ch. 109, sec. 4. Rev. Laws 1831, ch. 50, secs. 1-6. Rev. Stat. 1838, ch. 53. Rev. Stat. 1843, ch. 27. 1 Rev. Stat. 1852, ch. 55, sec. 1.

The power to appoint tobacco inspectors was transferred to the judge of the circuit court in 1857. Acts 1857; Burns 67-308; Baldwin 9461.

⁹³ 2 Rev. Stat. 1852; Burns 49-2720; Baldwin 1439.

The examination of the clerk's office is now made by the state examiner instead of the circuit judge. Acts 1900; Burns 60-211; Baldwin 13862. Interview of May 18, 1939 with E. P. Brennan, state examiner.

⁹⁴ Acts 1879 (Spec. Sess.), ch. 115, sec. 1.

sioners, have had charge of the construction and maintenance of county highways.⁹⁵

The county council and the board of commissioners, acting together, approve the acceptance of lands donated to the county for purposes of a public forest;⁹⁶ hold hearings on petitions for the condemnation of school buildings as unfit for use, and decide for or against such condemnation, subject to appeal to the circuit court;⁹⁷ determine, on proper petition, the order in which county highway projects shall be established and constructed, in the event two or more petitions for such projects are on file with the auditor at the same time;⁹⁸ and rebuild courthouses and jails destroyed by fire or windstorm, and issue bonds to defray the expense thereof.⁹⁹

A regular session of the board of commissioners begins on the first Monday of each month and continues so long as the necessary business of the session requires.¹⁰⁰ Special sessions are held when called by the auditor, or, in case of death or disqualification, by the clerk of the circuit court or the recorder, respectively.¹⁰¹ Any two members constitute a quorum to do business.¹⁰² The sheriff, in person or by deputy, attends the meetings of the board and executes its orders.¹⁰³ All meetings of the board are open to the public.¹⁰⁴ The board adopts regulations for the transaction of business; and in the trial of causes it is required to comply, so far as practicable, with the rules for conducting business in the circuit court.¹⁰⁵ Whenever, in the trial of any cause, two or more members of the board are disqualified, the circuit judge appoints special commissioners to act in their

⁹⁵ Acts 1901, ch. 228. Acts 1911, ch. 105. Acts 1913, ch. 40, sec. 1; ch. 330, sec. 1. Acts 1933; Burns 36-8101, 36-1110; Baldwin 8699, 8708. See the essays entitled "Surveyor" and "County Highway Supervisor."

⁹⁶ Acts 1929; Burns 32-105; Baldwin 4879.

⁹⁷ Acts 1931; Burns 28-3001 to 28-3006; Baldwin 6143 to 6148.

⁹⁸ Acts 1931; Burns 36-327 to 36-331; Baldwin 8751 to 8755.

⁹⁹ Acts 1935; Burns, 1939 suppl., 26-2011; Baldwin, 1935 suppl., 5240-1.

¹⁰⁰ Acts 1899; Burns 26-550; Baldwin 5221.

¹⁰¹ Acts 1863, 1899; Burns 26-607 to 26-610; Baldwin 5222 to 5225.

¹⁰² 1 Rev. Stat. 1852, Acts 1929; Burns 26-601; Baldwin 5215.

¹⁰³ 1 Rev. Stat. 1852; Burns 26-611; Baldwin 5226.

¹⁰⁴ 1 Rev. Stat. 1852; Burns 26-623; Baldwin 5239.

¹⁰⁵ 1 Rev. Stat. 1852; Burns 26-617; Baldwin 5228.

places.¹⁰⁶ Members of the board of commissioners are privileged from arrest and from obeying any subpoena to testify, during any session of the board and while going to and returning from the same.¹⁰⁷

Though appeals may be taken to the circuit court to review all judicial decisions of the board, no appeal lies from the action of the board in a purely ministerial or administrative capacity, unless a statute specifically allows it.¹⁰⁸ Appeals are specifically provided for in proceedings concerning claims against the county,¹⁰⁹ removal of the county seat,¹¹⁰ licensing of public ferries,¹¹¹ establishment or modification of townships,¹¹² and in highway matters.¹¹³

The auditor, as clerk of the board, attends its meetings, keeps a record of its proceedings, and preserves in his office all the books and papers touching the business of the county.¹¹⁴

PROCEEDINGS AND REPORTS

1. COMMISSIONERS' DOCKET, 1867-1931. 12 vols. (1-12). Discontinued.

Record of filing of documents for action by board of commissioners, showing cause number, date of filing, names of parties, nature of action, and disposition. Arr. chron. by dates of filing. No index. Hdw. 500 pp. 18 x 13 x 3. Bsm't. vt., B-12.

2. COMMISSIONERS' RECORD, 1822-Jan. 20, 1897, Aug. 28, 1899-. 22 vols. (A, A, C-M, O-W).

Record of minutes and proceedings of board of commissioners concerning county business, showing date and place of meeting, court term, names of members present and persons transacting

¹⁰⁶ Acts 1913; Burns 26-614 to 26-616; Baldwin 5229 to 5231.

¹⁰⁷ 1 Rev. Stat. 1852; Burns 3-401; Baldwin 721.

¹⁰⁸ 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277. *State ex rel. Starry v. Board of County Comrs.* (1893), 136 Ind. 207, 35 N. E. 1100; *State ex rel. Sink v. Circuit Court* (1938), 214 Ind. 323, 15 N. E. (2d) 624.

¹⁰⁹ Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275.

¹¹⁰ Acts 1885 (Spec. Sess.); Burns 26-410.

¹¹¹ 1 Rev. Stat. 1852; Burns 36-2615; Baldwin 7705.

¹¹² Acts 1859, 1939; Burns, 1939 suppl., 26-701; Baldwin, 1939 suppl., 16055. *State ex rel. Sink v. Circuit Court* (1938), 214 Ind. 323, 15 N. E. (2d) 624.

¹¹³ Acts 1905; Burns 36-1501; Baldwin 8858.

¹¹⁴ 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418.

business with board, subjects of business, and action taken. Also contains: Liquor License Bond Record, 1822-65, 1869-72, entry 8; Claim and Allowance Record, 1822-1910, entry 14; Road Record, 1822-57, entry 20; Ditch Record, 1822-57, entry 21; Official Bond Record, 1923-, entry 349; Trustees' Bond, 1932-, entry 350; Township Assessors' Bond Record, 1932-, entry 352. Arr. chron. by dates of meeting. Indexed alph. by subjects of business; for separate index to roads, see entry 19. 1822-June 1910, hdw.; July 1910-, typed. 550 pp. 18 x 13 x 3. Aud. off.

3. PETITIONS, 1882-. 18 f. b.

Original petitions filed in commissioners court, showing dates of petition, approval and filing, names of petitioners, nature of petition, and action taken. Also contains: Commissioners' Papers, 1937-, entry 4. Arr. chron. by dates of filing. No index. Hdw. 11 x 5 x 14. 2 f. b., 1882-1926, bsmt. vt., B-12; 16 f. b., 1915-, aud. off.

4. COMMISSIONERS' PAPERS, 1881-1936. 87 f. b., 5 cartons. 1937- in Petitions, entry 3.

Original documents filed in commissioners court, including petitions, applications for liquor licenses, remonstrances, viewers' reports and contracts, showing date of filing, nature of action, names of principals, and nature of instrument. Arr. chron. by dates of filing. No index. Hdw. and typed. F. b., 5 x 4 x 10; cartons, 24 x 12 x 36. Bsmt. vt., B-12.

5. MISCELLANEOUS RESOLUTION, 1932-. 2 f. b.

Resolutions by county board of commissioners canceling warrants issued and unclaimed after 5 years, showing dates of warrant and resolution, names of payee and fund, and amount of warrant. Arr. chron. by dates of resolutions. No index. Typed. 11 x 5 x 14. Aud. off.

6. [TRUSTEES' REPORT RECORD], 1895-99. 1 vol. Discontinued.

Abstracts of periodic reports of receipts and disbursements of township funds submitted to board of commissioners, showing date of report, names of trustee, fund and township, and amounts of receipts, disbursements and balances. Arr. chron. by dates of reports. No index. Hdw. 600 pp. 16 x 11 x 2½. Bsmt. vt., B-12.

7. SEMINARY RECORD, 1834-Feb. 18, 1852. 1 vol. (A).

Minutes of meetings of board of commissioners relative to county seminary fund, showing date and place of meeting, names of members present, subjects discussed, and actions taken. Arr. chron. by dates of meetings. No index. Hdw. 400 pp. 15 x 9 x 2. Bsmt. vt., B-6.

LIQUOR DEALERS' SURETY BONDS

8. LIQUOR LICENSE BOND RECORD, 1866-68, 1873-1918. 5 vols. (three vols. not labeled, 3, 4). Title varies: Retailers Bond, 1866-68, 1873-81, 2 vols. 1822-65, 1869-72 in Commissioners' Record, entry 2. Record of bonds posted by retail liquor dealers, showing date, amount and conditions of bond, names of dealer and sureties, and location and description of business. Arr. chron. by dates of bonds. 1866-68, 1876-82, 1899-1918, indexed alph. by names of dealers; 1873-75, 1883-98, no index. Hdw. 393 pp. 16 x 12 x 2. Bsmt. vt., B-6.

BOND ISSUES

9. BOND RECORD, 1899-. 3 vols. (one vol. not labeled, 2, 2). Register of county bond issues, showing dates of issue, maturity and redemption, serial number, amount, title and purpose of bonds, and name of purchaser. Arr. chron. by dates of issues. No index. Hdw. 500 pp. 18 x 14 x 3. 1 vol., 1899-July 15, 1919, bsmt. vt., B-6; 2 vols., July 16, 1919-, aud. off.

10. BONDS AND COUPONS, 1900-. 22 f. b. Redeemed bonds and interest coupons originally issued to finance county expenditures, showing dates of bond, maturity and redemption, numbers and amounts of bond and coupon, name of purchaser, and purpose of bond. Arr. num. by bond nos. No index. Ptd. 11 x 5 x 14. Aud. off.

BIDS AND CONTRACTS

11. BIDDERS RECORD, 1908-. 4 vols. (one vol. not labeled, 1-3). Record of all bids submitted to board of commissioners for construction, improvements, repairs, supplies and materials, showing dates and amounts of bid, bond and contract, nature of bid, name of bidder, and date bids opened. Arr. chron. by dates bids opened. No index. Hdw. 200 pp. 18 x 14 x 1. 1 vol., 1908-25, bsmt. vt., B-12; 3 vols., 1926-, aud. off.

12. INSURANCE OF COUNTY BUILDINGS, 1931-. 1 f. b. Insurance policies on county buildings, showing dates of policy and expiration, policy number, name of insurance company, location and description of property, and amounts of insurance and premium. Arr. chron. by dates of policies. No index. Typed. 11 x 5 x 14. Aud. off.

13. [RECORD OF INSURANCE ON COUNTY BUILDINGS AND EQUIPMENT], 1933. 1 vol.

Record of insurance on county buildings and equipment, showing dates of policy, expiration and recording, kind and description of property insured, names of insurance company and agent, and amount and number of policy. Arr. chron. by dates of recording. No index. Hdw. 150 pp. 8 x 16 x 1. Aud. off.

CLAIMS AND ALLOWANCES

14. CLAIM AND ALLOWANCE RECORD, 1911-. 6 vols. (1-6). 1822-1910 in Commissioners' Record, entry 2.

Record of claims filed for action by board of commissioners, showing date, number and amount of claim, name of claimant, nature of claim, amount allowed, and warrant number. Arr. chron. by dates of claims. No index. Hdw. 640 pp. 18 x 13 x 3. 4 vols., 1911-Nov. 1932, bsmt. vt., B-12; 2 vols., Dec. 1932-, aud. off.

15. COMMISSIONERS ALLOWANCES [CLAIMS], 1880-. 177 f. b. Original claims presented to board of commissioners for services and material furnished county, showing dates of claim, filing and allowance, name of claimant, nature and amount of claim, and claim, appropriation and warrant numbers. Arr. chron. by dates of filing. No index. Hdw. 11 x 5 x 14. 120 f. b., 1880-Mar. 1935, bsmt. vt., B-12; 57 f. b., April 1935-, aud. off.

16. POOR RELIEF CLAIMS, 1850-. 95 f. b. (dated).

Claims submitted to board of commissioners by vendors for services and provisions furnished indigent persons, with township trustees' original purchase orders attached, showing dates of purchase order, purchase and claim, names of indigent, vendor and township, amounts of order and claim, and case, order, claim and warrant numbers. Arr. chron. by dates of claims. No index. Hdw. 11 x 5 x 14. 62 f. b., 1850-1934, bsmt. vt., B-12; 33 f. b., 1935-, aud. off.

17. RECORD OF SOLDIERS BURIAL, 1889-. 3 vols. (one vol. not labeled, 2, 3).

Record of allowances for burial of soldiers, sailors and marines, showing dates of death and burial, name, age and address of deceased, service record, names of company and regiment, place of burial, and amount of allowance. Arr. chron. by dates of death. Indexed alph. by names of deceased. Hdw. 400 pp. 18 x 13 x 3. 1 vol., 1889-1919, bsmt. vt., B-12; 2 vols., 1920-, aud. off.

For other military records, see entries 103, 360.

18. CLAIMS FROM STATE INSTITUTIONS, 1926-. 4 f. b.

Original claims from state institutions for support of persons committed from county, showing dates of claims, filing and allowance, name and address of institution, number of persons in custody from county, claim number, cost per person, total amount of claim, and nature of claim. Arr. chron. by dates of claims. No index. Hdw. 11 x 5 x 14. Aud. off.

PUBLIC IMPROVEMENTS

(See also entries 256-258, 314-317, 425-435)

19. GENERAL INDEX OF DITCHES [and Roads], 1822-. 2 vols.

Title varies: Index of Roads, Commissioners' Record, 1822-57. 1 vol.

Index to road and ditch proceedings in Commissioners' Record, 1822-57, entry 2; road proceedings, 1858-, and ditch proceedings, 1858-1912, in Road Record, entry 20; and Ditch Record, 1913-, entry 21, showing date of action, names of road, ditch and petitioners, kind of action, and volume and page reference to recording. Arr. alph. by names of petitioners. Hdw. 500 pp. 18 x 13 x 3. Bsmt. vt., B-12.

20. ROAD RECORD, 1858-. 14 vols. (one vol. not labeled, 2-14). 1822-57 in Commissioners' Record, entry 2.

Record of actions and proceedings for construction and maintenance of highways, showing date of action, transcripts of petitions, viewers' reports, bids and contracts, proofs of publication, amounts of bonds and contracts, nature of improvement, and total cost. Also contains: Ditch Record, 1858-1912, entry 21. Arr. chron. by dates of actions. Indexed chron. by dates of actions; for separate index, see entry 19. 1858-Feb. 1911, hdw.; Mar. 1911-, typed. 375 pp. 18 x 13 x 3. 13 vols., 1858-June 4, 1929, bsmt. vt., B-12; 1 vol., June 8, 1929-, aud. off.

21. DITCH RECORD, 1913-. 1 vol. 1822-57 in Commissioners' Record, entry 2; 1858-1912 in Road Record, entry 20.

Record of actions and proceedings for construction and maintenance of ditches, showing date of action, transcripts of petitions, remonstrances, viewers' reports and contracts, proofs of publication, name of ditch, nature of improvement, location of ditch, and cost for construction or improvement. Arr. chron. by dates of actions. Indexed chron. by dates of actions; for separate index, see entry 19. Typed. 400 pp. 18 x 13 x 3. Aud. off.

II. COUNTY COUNCIL

LEGAL STATUS

The Shelby County Council exists under the mandatory provisions of an act of 1899, commonly referred to as the County Reform Law.¹ The council is composed of seven members. Each councilman is elected for a term of four years, and holds his office until his successor has been elected and qualified. The county is divided by the board of commissioners into four councilmanic districts; and one councilman is elected by the voters of each district. Three councilmen at large are elected by the voters of the whole county.² Each councilman receives a certificate of election from the clerk of the circuit court and is not commissioned by the governor.³ Members of the first council were appointed in 1899 by the judge of the circuit court.⁴ The county auditor is clerk of the county council; and his duties as such may be performed by himself or by deputy.⁵ At an organization meeting held on the second Saturday after its election, the council chooses from its members a presiding officer and a presiding officer *pro tem*, who serve for the terms of their respective offices as councilmen.⁶

Each member must have been an inhabitant of the county during one year next preceding the date of his election or appointment. A councilman at large must be a qualified voter and resident freeholder of the county; and each of the other members must be a qualified voter and resident freeholder of the district from which he was elected or appointed. No person can hold the office of councilman while holding any other county office or any state, township, or municipal office.⁷ Each councilman must take an oath that he will support the state and federal constitutions and that he will faithfully and honestly perform his duties as councilman.⁸

¹ Acts 1899; Burns 26-501; Baldwin 5365.

² Const. 1851, art. 15, sec. 3. Acts 1899, 1907; Burns 26-502, 26-505; Baldwin 5366, 5369.

³ Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin 13095, 13096.

⁴ Acts 1899; Burns 26-548.

⁵ Acts 1899; Burns 26-509; Baldwin 5373.

⁶ Acts 1899, 1931; Burns 26-507; Baldwin 5371.

⁷ Const. 1851, art. 2, sec. 9; art. 6, secs. 4, 6. Acts 1899; Burns 26-504; Baldwin 5368.

State *ex rel* Workman v. Goldthait (1909), 172 Ind. 210, 87 N. E. 133.

⁸ Const. 1851, art. 15, sec. 4. Acts 1899; Burns 26-506; Baldwin 5370. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

A councilman receives a salary of \$10 per year plus \$10 for each day served at special meetings of the council.⁹ Before 1927 there was no additional compensation for serving at special meetings.¹⁰ From 1899 until 1933 the auditor was entitled to a suitable annual allowance by the county council in an amount not less than \$200 nor more than \$600 (in addition to his regular salary), for his services as clerk of the county council; but since 1933 his annual salary of \$2,400 has been compensation for his regular duties and also his duties as clerk of the county council.¹¹

For sufficient legal grounds any councilman may be removed by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹² If any councilman is convicted of a felony the judgment of conviction must declare his office vacant.¹³ The county council has the power to expel any councilman for disability, ineligibility, neglect to perform the duties of his office, or violation of official duties; and no law specifically provides for a review of such expulsion.¹⁴ Any vacancy in the membership of the council is filled through appointment by the remaining members of the council at a special meeting held for that purpose. A person appointed to fill such vacancy holds office until the expiration of the term in which such vacancy occurred and until his successor is elected and qualified.¹⁵

The purpose of the general assembly in creating the county council in 1899 was to place limits and checks on county business and on payments out of the county treasury.¹⁶ Before 1899 the board of commissioners performed the duties now performed by the council.¹⁷

⁹ Acts 1899, 1927; Burns 26-503; Baldwin 5367.

¹⁰ Acts 1899, ch. 154, sec. 2.

¹¹ Acts 1899; Burns 26-509, 26-550; Baldwin 5373, 5221. Acts 1933; Burns 49-1001, 49-1004; Baldwin 7531, 7534. *Opinions of the Attorney General of Indiana, 1934*, p. 313; 1936, p. 130.

¹² Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1899; Burns 26-504; Baldwin 5368. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13163. Acts 1875; Burns 49-837; Baldwin 17052.

¹³ Acts 1897, 1899; Burns 49-834; Baldwin 17050.

¹⁴ Acts 1899; Burns 26-504, 26-512; Baldwin 5368, 5376.

¹⁵ Const. 1851, art. 15, sec. 3. Acts 1899, 1907; Burns 26-505; Baldwin 5369.

¹⁶ Acts 1899; Burns 26-529; Baldwin 5393. *Snider v. State ex rel. Leap* (1934), 206 Ind. 474, 190 N. E. 178.

¹⁷ 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 13, 16-18, 21, 22.

FUNCTIONS AND RECORDS

The county council makes appropriations of money to be paid out of the county treasury, makes county tax levies, fixes the county tax rates,¹⁸ authorizes the borrowing of money for the county,¹⁹ authorizes the county to purchase, sell, or convey real estate of the value of \$1,000 or more,²⁰ and fixes the amounts of salaries of deputy officers and other assistants of county officers.²¹ In making appropriations, the council considers estimates of expenditures which are filed by all county officers with the auditor and presented by him to the council with his recommendations and proposed ordinances.²² Such appropriations, tax levies, and tax rates are subject to review by the county board of tax adjustment or the state board of tax commissioners.²³ In mandamus proceedings the court can compel the county council to make appropriations and tax levies where it is the statutory duty of the council to do so; and this is true though such duty rests on the performance of a condition, if in fact the condition has been performed.²⁴ The authorization by the council of the issuance of bonds or notes in an amount exceeding \$5,000, excepting temporary obligations, is subject to review by the state board of tax commissioners; and no bonds or notes bearing interest greater than five percent per annum can be issued without the approval of said board.²⁵

The county council and the board of commissioners, acting together, approve the acceptance of lands given or devised to the county for purposes of a public forest;²⁶ hold hearings on petitions for the condemnation of school buildings as unfit

¹⁸ Acts 1899, 1931; Burns 26-507, 26-515, 26-520; Baldwin 5371, 5379, 5384. Acts 1899, 1907, 1913, 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385. Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386.

¹⁹ Acts 1899, 1921, 1929; Burns 26-532, 26-540; Baldwin 5396, 5405.

²⁰ Acts 1903; Burns 22-3201; Baldwin 4507. Acts 1899; Burns 26-534; Baldwin 5399.

²¹ Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

²² Acts 1899; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1899, 1907, 1913, 1937 Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385.

²³ Acts 1937; Burns, 1939 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

²⁴ Acts 1899; Burns 26-528; Baldwin 5392. *State ex rel. Simpson v. Meeker* (1914), 182 Ind. 240, 105 N. E. 906; *State ex rel. Test v. Steinwedel* (1932), 203 Ind. 457, 180 N. E. 865; *Blue v. State ex rel. Powell* (1936), 210 Ind. 486, 1 N. E. (2d) 122.

²⁵ Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736. *Citizens Bank v. Burnettsville* (1932), 98 Ind. App. 92, 179 N. E. 724.

²⁶ Acts 1929; Burns 32-105; Baldwin 4879.

for use, and decide for or against such condemnation, subject to appeal to the circuit court;²⁷ determine, on proper petition, the order in which county highway projects shall be established and constructed, in the event two or more petitions for such projects are on file with the auditor at the same time;²⁸ and rebuild courthouses and jails destroyed by fire or windstorm and issue bonds to defray the expense thereof.²⁹

It is unlawful for any councilman to be interested personally in any contract with the county, or to purchase, for less than par, any bond, warrant, claim, or demand against the county.³⁰

The county council holds a regular annual meeting on the first Tuesday after the first Monday of September of each year. Special meetings may be called by the auditor or a majority of the members of the council.³¹ The sessions are open to the public and may continue until all business is completed.³² A majority of all the members constitutes a quorum to do business, and such majority must concur in the passage of ordinances.³³ A greater vote is required in order to expel a member (two-thirds),³⁴ adopt appropriations for items not included in budget estimates or for amounts greater than those of the items in the budget estimates (three-fourths),³⁵ adopt appropriations at a special meeting (two-thirds),³⁶ and to levy taxes for the repair, maintenance, or preservation of county highways (unanimous).³⁷ The sheriff, in person or by deputy, attends the sessions of the council and executes its orders.³⁸

The auditor, as ex officio clerk of the council, keeps in his office the files and papers of the council and a record of its proceedings.³⁹ He keeps separate accounts for each specific item of appropriation made by the council.⁴⁰

²⁷ Acts 1931; Burns 28-3001 to 28-3006; Baldwin 6143 to 6148.

²⁸ Acts 1931; Burns 36-327 to 36-331; Baldwin 8751 to 8755.

²⁹ Acts 1915; Burns, 1939 suppl., 26-2011; Baldwin, 1933 suppl., 5240-1.

³⁰ Acts 1899; Burns 26-513, 26-514; Baldwin 5377, 5378.

³¹ Acts 1899, 1931; Burns 26-507; Baldwin 5371.

³² Acts 1899; Burns 26-508; Baldwin 5372.

³³ Acts 1899; Burns 26-511; Baldwin 5375.

³⁴ Acts 1899; Burns 26-512; Baldwin 5376.

³⁵ Acts 1899; Burns 26-520; Baldwin 5384.

³⁶ Acts 1899, 1907, 1913, 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385.

³⁷ Acts 1932 (Spec. Sess.); Burns 36-305; Baldwin 8715.

³⁸ Acts 1899; Burns 26-510; Baldwin 5374.

³⁹ Acts 1899; Burns 26-509; Baldwin 5373. State *ex rel.* Van Der Veer v. Butcher (1933).

205 Ind. 117, 185 N. E. 908.

⁴⁰ Acts 1899; Burns 26-523; Baldwin 5387.

22. RECORD OF COUNTY COUNCIL, 1899-. 3 vols. (1-3). Minutes of meetings of county council, showing date of meeting, names of members present, subjects discussed, and action taken. Arr. chron. by dates of meetings. No index. 1899-1912, hdw.; 1913-, typed. 1 vol., 1899-Apr. 1924, bsmt. vt., B-12; 1 vol., May 1924-, aud. off.

23. COUNTY OFFICERS ESTIMATES, 1930-. 3 f. b. Documents acted upon by county council including estimates of officials, ordinances of appropriation and tax levies, showing dates of instrument and filing, names of office, official, taxing unit and members of council, amount and purpose of appropriation, itemized list of expenditures, itemized tax rates of each fund, total budget, and total levy. Arr. chron. by dates of filing. No index. Typed. 11 x 5 x 14. Aud. off.

III. CLERK OF THE CIRCUIT COURT

LEGAL STATUS

The office of clerk of the circuit court exists under the mandatory provisions of the Constitution of 1851, and has existed in Shelby County since its organization in 1822. The clerk of the circuit court (commonly referred to as "county clerk") is elected for a four-year term by the voters of the county.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ No person is eligible to hold the office more than eight years in any 12-year period.⁴ The clerk must be an elector of the county at the time of his election, must have been an inhabitant thereof during the preceding year,⁵ must reside within the county after his election, must not hold any other lucrative office,⁶ and must not practice law.⁷ He must post bond

¹ Const. 1816, art. 5, sec. 8. Const. 1851, art. 6, sec. 2. Acts 1816-17, ch. 3, sec. 4; ch. 14, secs. 1, 8. Acts 1817-18 (special), ch. 3, secs. 1, 3. Acts 1821-22, ch. 31, secs. 1, 2. Rev. Laws 1824, ch. 36, secs. 1, 3. 2 Rev. Stat. 1852; Burns 49-2701; Baldwin 1427.

² Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3.

⁴ *Ibid.*, art. 6, sec. 2.

⁵ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁶ Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6.

⁷ Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1905; Burns 10-3102; Baldwin 2636. *McCracken v. State* (1867), 27 Ind. 491.

in an amount fixed by the board of commissioners, to be approved by that board and filed with the recorder.⁸ The clerk must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.⁹ Under the Constitution of 1816 (which created the office in every county then or thereafter organized), the clerk was elected for a seven-year term and could hold the office of recorder.¹⁰

The clerk of the circuit court receives a regular salary of \$2,080 per year.¹¹ He receives \$125 for his services rendered at each general election, primary election, or special election.¹² For each registration blank or transfer of registration which he fills out and executes, he receives a sum fixed by the board of commissioners, not exceeding four cents; and in addition thereto receives reasonable compensation (fixed by the board of commissioners) for additional services rendered by him as registration officer.¹³ He is not permitted to retain, as compensation for himself, any fees collected by him, except to the extent expressly authorized by statute in the following cases: Five cents for each mile necessarily traveled in going from the clerk's office to the governor's office, to receive state ballots, and in returning to the clerk's office; \$5 for his duties in connection with the admission or discharge of any person at any hospital for the insane, the Fort Wayne State School, the Muscatatuck Colony, the Indiana Village for Epileptics, or the James Whitcomb Riley Hospital for Children; fees for the issuance of fish and game licenses; fees for preparing transcripts for change of venue from his county; and all fees for change of venue to his county, except for preparation of transcripts.¹⁴

⁸ Acts 1816-17, ch. 2, sec. 4. Rev. Laws 1824, ch. 24, sec. 3. Rev. Stat. 1838, ch. 15, sec. 1; ch. 17, sec. 5. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-106, 49-120; Baldwin 13066, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852; Burns 49-2701; Baldwin 1427. Acts 1875; Burns 49-2703, 49-2704; Baldwin 1430, 1431.

⁹ Const. 1851, art. 15, sec. 4. Acts 1816-17, ch. 2, sec. 4. Acts 1817-18 (special), ch. 3, sec. 3. Rev. Laws 1824, ch. 24, sec. 3. Rev. Laws 1831, ch. 15, sec. 5. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101, 49-104; Baldwin 13054, 13057.

¹⁰ Const. 1816, art. 5, sec. 8; art. 11, sec. 10. Rev. Stat. 1843, ch. 4, sec. 62.

¹¹ Acts 1933; Burns 49-1004; Baldwin 7534.

¹² Acts 1935; Burns, 1939 suppl., 29-1014; Baldwin, 1935 suppl., 7109-1.

¹³ Acts 1933, 1935; Burns, 1939 suppl., 29-329; Baldwin, 1935 suppl., 7827.

¹⁴ Acts 1841-42 (general), ch. 119, sec. 1. Acts 1933; Burns 49-1001, 49-1005, 49-1007; Baldwin 7531, 7535, 7537. Acts 1933, 1937; Burns, 1939 suppl., 49-1007; Baldwin, 1937 suppl., 7537. Acts 1927; Burns 49-1301 to 49-1305; Baldwin 7561 to 7565.

For sufficient legal grounds the clerk of the circuit court may be removed from office by the circuit court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹⁵ If the clerk is convicted of a felony the judgment of conviction must declare his office vacant.¹⁶

Any vacancy in the office of clerk of the circuit court is filled through appointment by the board of commissioners. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), a clerk is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor, and holds office until his successor is elected and qualified.¹⁷

The clerk may appoint deputies and assistants under authority from the board of commissioners. One deputy may be appointed without such authorization. The county council fixes the salaries of the deputies and assistants, which must be not less than \$75 nor more than \$200 per month.¹⁸ The clerk may require any deputy to give bond.¹⁹ The deputies must take the oath required of the clerk, may perform all the official duties of the clerk, and are subject to the same regulations and penalties.²⁰ The clerk may remove such deputies and assistants at any time, and is responsible for their official acts.²¹

¹⁵ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹⁶ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁷ Const. 1851, art. 6, sec. 9. Acts 1817-18 (general), ch. 17, secs. 1, 8. Rev. Laws 1824, ch. 10, sec. 4; ch. 36, sec. 1. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7031. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. *Douglass v. State ex rel. Wright* (1869), 31 Ind. 429. Interview of July 11, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹⁸ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532. *Opinions of the Attorney General of Indiana*, 1934, p. 256; 1937, p. 224.

¹⁹ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

²⁰ 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

²¹ Rev. Laws 1824, ch. 10, sec. 2. 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

FUNCTIONS AND RECORDS

As an officer of the Shelby County Circuit Court the clerk performs numerous duties. In person or by deputy he attends the circuit court and performs the statutory and customary duties of clerk at trials;²² files pleadings and papers and endorses thereon the time of such filing;²³ issues summonses,²⁴ notices for service by publication,²⁵ attachment writs,²⁶ garnishment writs,²⁷ executions,²⁸ witness subpoenas,²⁹ letters testamentary, and letters of administration;³⁰ takes depositions of witnesses;³¹ approves and keeps judicial bonds;³² keeps court dockets,³³ inheritance tax

²² Acts 1816-17, ch. 3, sec. 3. Rev. Laws 1824, ch. 10, sec. 1. Rev. Laws 1831, ch. 15, sec. 1. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

²³ Acts 1816-17, ch. 2, sec. 12; ch. 4, sec. 28; ch. 5, secs. 1, 2, 18. Acts 1817-18 (general), ch. 4, sec. 17. Rev. Laws 1824, ch. 73, secs. 1, 7, 15, 27; ch. 74, secs. 1, 18-21, 33, 41; ch. 79, secs. 8, 38. Rev. Stat. 1843, ch. 38, sec. 49. Acts 1881 (Spec. Sess.); Burns 2-802, 2-1641; Baldwin 83, 288. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

Indictment. Acts 1881 (Spec. Sess.), ch. 36, sec. 89. Acts 1905; Burns 9-904; Baldwin 2126.

²⁴ Acts 1816-17, ch. 2, sec. 8; ch. 4, sec. 5. Acts 1817-18 (general), ch. 60, sec. 3; ch. 3; ch. 61, sec. 3. Rev. Laws 1824, ch. 24, sec. 7; ch. 73, secs. 1, 2, 10, 22; ch. 74, secs. 2, 3, 9-11, 24. Acts 1881 (Spec. Sess.); Burns 2-802; Baldwin 83.

²⁵ Rev. Laws 1824, ch. 73, sec. 3. Acts 1881 (Spec. Sess.), 1885, 1935; Burns, 1939 suppl., 2-807; Baldwin, 1935 suppl., 88.

²⁶ Rev. Laws 1831, ch. 6, sec. 1. Acts 1881 (Spec. Sess.); Burns 3-509; Baldwin 777.

²⁷ Acts 1881 (Spec. Sess.), 1897; Burns 3-522; Baldwin 791.

²⁸ Acts 1816-17, ch. 4, sec. 36; ch. 5, sec. 22. Acts 1817-18 (general), ch. 3, sec. 63; ch. 66, sec. 1. Rev. Laws 1824, ch. 10, sec. 1; ch. 74, sec. 55. Acts 1881 (Spec. Sess.); Burns 2-3301 to 2-3314; Baldwin 523, 526, 525, 527, 521, 522, 531, 532, 427, 528 to 530, 535, 524.

²⁹ Acts 1816-17, ch. 4, sec. 12. Rev. Laws 1824, ch. 74, sec. 16. Acts 1881 (Spec. Sess.); Burns 2-1701; Baldwin 289.

³⁰ Acts 1817-18 (general), ch. 13, secs. 1, 2. Rev. Laws 1824, ch. 79, sec. 4. Acts 1881 (Spec. Sess.), 1901; Burns 6-201, 6-301; Baldwin 3025, 3030.

³¹ Acts 1881 (Spec. Sess.); Burns 2-1501; Baldwin 211.

³² Acts 1816-17, ch. 4, sec. 36; ch. 5, sec. 18. Acts 1817-18 (general), ch. 13, sec. 19. Rev. Laws 1824, ch. 5, sec. 24; ch. 74, sec. 13; ch. 79, sec. 2. Rev. Laws 1831, ch. 6, secs. 1, 26. Acts 1881 (Spec. Sess.); Burns 2-3209, 3-303, 3-508, 3-519, 6-501, 6-1506, 6-2001; Baldwin 484, 726, 776, 788, 3048, 3229, 3277. 2 Rev. Stat. 1852; Burns 7-502; Baldwin 3396. 2 Rev. Stat. 1852, Acts 1857, 1881 (Spec. Sess.); Burns 8-104; Baldwin 3421.

³³ Acts 1816-17, ch. 2, sec. 12; ch. 4, secs. 1, 11, 12, 28, 32. Acts 1817-18 (general), ch. 3, sec. 11. Rev. Laws 1824, ch. 73, sec. 15; ch. 74, secs. 15, 33, 55. Rev. Stat. 1843, ch. 38, secs. 48, 51; ch. 40, secs. 189, 367, 487. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 358. Acts 1881 (Spec. Sess.), 1929; Burns 2-1103, 2-2520, 2-3314; Baldwin 179, 392, 524. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

Docketing appeals. Acts 1881 (Spec. Sess.); Burns 2-3226; Baldwin 500.

records,³⁴ probate records,³⁵ receivership records,³⁶ guardianship records,³⁷ and records of redemption from judicial sales;³⁸ he records orders, judgments,³⁹ indictments,⁴⁰ notices of lis pendens,⁴¹ and probated wills;⁴² draws up a record of the proceedings of the court daily;⁴³ enters in a final record book a complete record of causes finally determined;⁴⁴ prepares and certifies transcripts of proceedings for change of venue from the county⁴⁵ or for appeal to a higher court;⁴⁶ receives payments for all judgments of record in his office;⁴⁷ and prepares budget estimates for the circuit court.⁴⁸ He keeps the jury box containing names selected by

³⁴ Acts 1913, ch. 47, secs. 17, 18. Acts 1931, 1933, 1937; Burns, 1939 suppl., 6-2407; Baldwin, 1937 suppl., 15945.

³⁵ Acts 1817-18 (general), ch. 13, secs. 1, 2. Rev. Laws 1824, ch. 79, secs. 8, 38. Acts 1891, ch. 194, sec. 114. Acts 1909, ch. 10, sec. 1. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205; Baldwin 3014.

³⁶ Acts 1911; Burns 3-2607; Baldwin 1147.

³⁷ Acts 1816-47 (general), ch. 54, sec. 1. Acts 1889; Burns 8-137; Baldwin 3424.

³⁸ Acts 1879, ch. 79, sec. 7. Acts 1881 (Spec. Sess.); Burns 2-4001; Baldwin 624.

³⁹ Acts 1816-17, ch. 5, sec. 22. Acts 1817-18 (general), ch. 3, sec. 63; ch. 66, sec. 5. Rev. Laws 1824, ch. 40, sec. 13. Acts 1825, ch. 8, sec. 1. Rev. Stat. 1843, ch. 38, sec. 40. Acts 1893; Burns 2-822; Baldwin 103. Acts 1881 (Spec. Sess.), 1929; Burns 2-2520, 2-2706; Baldwin 392, 421. Acts 1915; Burns 3-1410 Baldwin 968. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

⁴⁰ 2 Rev. Stat. 1852, pt. 3, ch. 1, sec. 68 (repealed by Acts 1881 (Spec. Sess.), ch. 36, sec. 32.) Acts 1881 (Spec. Sess.), ch. 36, sec. 99. Acts 1905; Burns 9-904; Baldwin 2126.

⁴¹ Acts 1877 (Spec. Sess.), ch. 24, secs. 1, 4. Acts 1881 (Spec. Sess.); Burns 2-813 to 2-821; Baldwin 94 to 96, 101, 102, 97 to 100. Acts 1893; Burns 2-822; Baldwin 103. Acts 1905; Burns 56-505; Baldwin 14708-1.

⁴² Domestic probate. Acts 1817-18 (general), ch. 13, sec. 2. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205; Baldwin 3014. 2 Rev. Stat. 1852; Burns 7-411; Baldwin 3385.

Foreign probate. 2 Rev. Stat. 1852; Burns 7-415 to 7-417; Baldwin 3389 to 3391.

⁴³ Acts 1816-17, ch. 3, sec. 3. Acts 1817-18 (general), ch. 3, sec. 62. Rev. Laws 1824, ch. 74, sec. 54. 2 Rev. Stat. 1852, Acts 1885, 1933; Burns 4-324; Baldwin 1413.

⁴⁴ Acts 1817-18 (general), ch. 3, sec. 63; ch. 66, sec. 5. Rev. Laws 1824, ch. 10, sec. 1. Rev. Stat. 1843, ch. 38, secs. 40, 52. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

⁴⁵ Acts 1818-19, ch. 3, sec. 4. Acts 1881 (Spec. Sess.); Burns 2-1406; Baldwin 191. Acts 1905; Burns 9-1305; Baldwin 2226.

Fees on change of venue, and record thereof. Acts 1913, ch. 256, sec. 2. Acts 1927; Burns 2-1421; Baldwin 203. *Opinions of the Attorney General of Indiana, 1934*, p. 123.

⁴⁶ Acts 1903, 1915; Burns 2-3104; Baldwin 462. Acts 1881 (Spec. Sess.); Burns 2-3105; Baldwin 455. Acts 1903, 1933; Burns 2-3112; Baldwin 466.

⁴⁷ Acts 1875; Burns 49-2719; Baldwin 1438.

⁴⁸ Acts 1899; Burns 26-516; Baldwin 5380.

the jury commissioners (the key thereto being kept by a jury commissioner), draws therefrom names of persons to serve on the grand jury and petit jury, records their names in the order book, and issues a venire to require such persons to appear in court.⁴⁹ All new actions and proceedings of the circuit court are filed in the office of the clerk, and are numbered in consecutive order as filed.⁵⁰ He is charged with the duty of keeping and preserving the official records of the court.⁵¹ Formerly he issued certificates showing discharge of apprentices by the court.⁵² From 1829 until 1853 he was ex officio clerk of the probate court (abolished in 1853);⁵³ from 1853 until 1873 he was ex officio clerk of the court of common pleas (abolished in 1873);⁵⁴ and from 1911 until 1913 he was ex officio clerk of the superior court (abolished in 1913).⁵⁵

The clerk issues licenses for marriages,⁵⁶ physicians, surgeons,⁵⁷ midwives,⁵⁸ osteopaths,⁵⁹ chiropractors, drugless healers,⁶⁰ dentists,⁶¹ optometrists,⁶² hunting, trapping,

⁴⁹ Acts 1817-18 (general), ch. 48, secs. 2, 3. Rev. Laws 1824, ch. 56, secs. 1-3. Rev. Laws 1831, ch. 53, secs. 1, 2. Acts 1881 (Spec. Sess.), 1939; Burns, 1939 suppl., 4-3304; Baldwin, 1939 suppl., 1267. Acts 1881 (Spec. Sess.), 1895, 1913; Burns 4-3305, 4-3306; Baldwin 1272, 1270.

⁵⁰ Acts 1881 (Spec. Sess.); Burns 2-1053; Baldwin 158. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

⁵¹ 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

⁵² Acts 1817-18 (general), ch. 51, sec. 2. Rev. Laws 1824, ch. 3, sec. 2. Rev. Laws 1831, ch. 4, sec. 2.

⁵³ Acts 1829-30, ch. 26, sec. 3. Rev. Laws 1831, ch. 25, sec. 7. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43.

⁵⁴ 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 25, 26. Acts 1873; Burns 4-328; Baldwin 1417.

⁵⁵ Acts 1911, ch. 67, sec. 8. Acts 1913, ch. 2, secs. 3-5.

⁵⁶ Acts 1817-18 (general), ch. 34, secs. 3, 4, 7. Rev. Stat. 1838, ch. 68, sec. 3. Rev. Stat. 1843, ch. 35, secs. 8, 9, 12. 1 Rev. Stat. 1852; Burns 44-201; Baldwin 5622.

⁵⁷ Acts 1881, ch. 19, secs. 10, 11. Acts 1885 (Spec. Sess.), ch. 77, sec. 2 (repealed by Acts 1897, ch. 169, sec. 10). Acts 1897; Burns 63-1303; Baldwin 10705.

⁵⁸ Acts 1897; Burns 63-1309; Baldwin 10709.

⁵⁹ Acts 1901; Burns 63-1316; Baldwin 10716.

⁶⁰ Acts 1927; Burns 63-1312; Baldwin 10713.

⁶¹ Acts 1899, ch. 211, secs. 5, 7-11. Acts 1913, 1931, 1935; Burns, 1939 suppl., 63-504; Baldwin, 1935 suppl., 5589. Acts 1913, 1931; Burns 63-506, 63-507; Baldwin 5591, 5592.

⁶² Acts 1907; Burns 63-1009; Baldwin 13180. Acts 1907, 1935; Burns, 1939 suppl., 63-1010, 63-1011; Baldwin, 1935 suppl., 13181, 13182.

fishing,⁶⁸ poultry dealers,⁶⁴ junk dealers,⁶⁵ and for carrying pistols.⁶⁶ He approves (unless other provision is made by law), files, and keeps a record of the bonds of county officers (except his own and the bonds of the county assessor and county superintendent of schools), township officers,⁶⁷ and notaries public.⁶⁸ He files copies of the official oaths of county officers.⁶⁹ He records timber brands,⁷⁰ certificates of patents granted by the United States Patent Office,⁷¹ assumed business names,⁷² trade-marks and trade names used on bottles and other containers,⁷³ inventories and accounts of trustees,⁷⁴ appointments of railroad agents for service of process,⁷⁵ and termination of authority of railroad policemen.⁷⁶ He records marriage licenses, the application therefor, and certificates of marriages;⁷⁷ and makes monthly

⁶³ Acts 1901, ch. 203, sec. 13. Acts 1907, ch. 216, sec. 9. Acts 1911, ch. 286, secs. 1, 2. Acts 1927, 1933; Burns 11-302, 11-310; Baldwin 8302, 8309. Acts 1937; Burns, 1939 suppl., 11-1403; Baldwin, 1937 suppl., 8229-3.

The cited sections of the acts of 1901, 1911, 1927, and 1933 were repealed by Acts 1937, ch. 21, sec. 161.

⁶⁴ Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-802; Baldwin 10486.

⁶⁵ Acts 1905; Burns 42-703; Baldwin 10462.

⁶⁶ Acts 1913, ch. 167, sec. 1. Acts 1917, ch. 125, sec. 6. Acts 1925, ch. 207, secs. 7, 9. Acts 1929, ch. 98, sec. 1. Acts 1935, ch. 63, sec. 21. Acts 1935, 1937; Burns, 1939 suppl., 10-4738; Baldwin, 1937 suppl., 2569-5.

⁶⁷ Acts 1816-17, ch. 2, sec. 3; ch. 13, sec. 3. Acts 1817-18 (general), ch. 42, sec. 3; ch. 72, sec. 1. Acts 1818-19, ch. 2, sec. 1. Rev. Laws 1824, ch. 13, sec. 2. Rev. Laws 1831, ch. 15, sec. 7; ch. 20, sec. 23. Acts 1833-34, ch. 16, sec. 1. Rev. Stat. 1843, ch. 4, secs. 84, 86, 89; ch. 10, sec. 2. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. 1 Rev. Stat. 1852; Burns 49-105; Baldwin 13063. Acts 1889; Burns 49-109; Baldwin 13064. Acts 1857; Burns 49-124; Baldwin 13077. Acts 1857; Burns 49-125; Baldwin 16118. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

⁶⁸ 1 Rev. Stat. 1852, Acts 1855; Burns 49-3503; Baldwin 13016.

⁶⁹ Acts 1816-17, ch. 11, sec. 4; ch. 13, sec. 4; ch. 19, sec. 1; ch. 39, sec. 1. Acts 1817-18 (special), ch. 3, sec. 3. Acts 1817-18 (general), ch. 29, sec. 2; ch. 42, sec. 3. Rev. Laws 1824, ch. 24, sec. 3; ch. 73, sec. 31. 1 Rev. Stat. 1852; Burns 49-104; Baldwin 7534.

⁷⁰ Acts 1901; Burns 51-338; Baldwin 13265.

⁷¹ Acts 1869 (Spec. Sess.), 1899; Burns 51-401; Baldwin 2772.

⁷² Acts 1909; Burns 50-201, 50-202; Baldwin 13210, 13211.

⁷³ Acts 1897, ch. 192, sec. 1. Acts 1917, 1931; Burns 66-101; Baldwin 16179.

⁷⁴ Acts 1937; Burns, 1939 suppl., 6-2514; Baldwin, 1937 suppl., 3221-14.

⁷⁵ Acts 1877 (Spec. Sess.); Burns 55-3301 to 55-3303; Baldwin 14329 to 14331.

⁷⁶ Acts 1927; Burns 55-3408; Baldwin 14654.

⁷⁷ Acts 1817-18 (general), ch. 34, sec. 6. Rev. Stat. 1838, ch. 68, sec. 6. 1 Rev. Stat. 1852; Burns 44-293; Baldwin 5624. Acts 1905, 1917; Burns 44-205; Baldwin 5625.

reports to the county health officer concerning marriages for the preceding month.⁷⁸ He registers certificates of trained nurses,⁷⁹ and keeps a register of estrays and articles adrift.⁸⁰ He administers oaths,⁸¹ takes acknowledgments of written instruments,⁸² and distributes session laws enacted by the general assembly.⁸³

Formerly the clerk issued liquor licenses,⁸⁴ brokers' licenses,⁸⁵ licenses for sale of foreign merchandise,⁸⁶ licenses for veterinarians,⁸⁷ stallions,⁸⁸ and petty money lenders;⁸⁹ kept a negro register,⁹⁰ a register of certificates of agents of foreign insurance companies,⁹¹ a roll of attorneys of the county,⁹² lists of shareholders of banks of the county,⁹³ lists of lands purchasable at all land offices in the state,⁹⁴ standards of weights and measures,⁹⁵ and plats

⁷⁸ Acts 1881, ch. 19, sec. 11. Acts 1891, ch. 15, sec. 11. Acts 1907, 1913; Burns 35-115; Baldwin 8398.

⁷⁹ Acts 1905, 1913, 1931; Burns 63-903; Baldwin 13036.

⁸⁰ Acts 1807, ch. 20, secs. 1-3. Acts 1817-18 (general), ch. 68, secs. 2, 3. Rev. Laws 1824, ch. 39, sec. 2. 1 Rev. Stat. 1852; Burns 51-306, 51-315; Baldwin 13233, 13243.

⁸¹ Acts 1817-18 (general), ch. 29, sec. 2; ch. 42, sec. 3. Acts 1818-19, ch. 17, sec. 1. Rev. Laws 1824, ch. 10, sec. 2; ch. 73, sec. 31. 2 Rev. Stat. 1852; Burns 49-2708; Baldwin 1435.

⁸² Acts 1817-18 (general), ch. 28, sec. 12. Rev. Laws 1824, ch. 82, sec. 12. Rev. Laws 1831, ch. 41, sec. 10. 1 Rev. Stat. 1852, Acts 1859; Burns 56-123; Baldwin 14674.

⁸³ Acts 1933, 1935; Burns, 1939 suppl., 49-1612, 49-1612a, 49-1614; Baldwin, 1935 suppl., 14956, 15956-1, 14958. Acts 1897; Burns 49-1613; Baldwin 14957.

⁸⁴ Acts 1817-18 (general), ch. 47, sec. 3. Acts 1820-21, ch. 36, secs. 1, 2. Rev. Laws 1824, ch. 107, sec. 3. Acts 1917, ch. 4, secs. 6, 12.

⁸⁵ Acts 1840-41 (general), ch. 5, sec. 18.

⁸⁶ Acts 1816-17, ch. 17, sec. 4. Acts 1817-18 (general), ch. 44, sec. 4. Rev. Laws 1824, ch. 23, sec. 3. Rev. Laws 1831, ch. 21, sec. 7.

⁸⁷ Acts 1901, ch. 189, sec. 7 (repealed by Acts 1905, ch. 98, sec. 17).

⁸⁸ Acts 1889, ch. 116, sec. 1 (superseded by Acts 1913, ch. 28, creating the stallion enrollment board).

⁸⁹ Acts 1913, ch. 167, secs. 1-4 (repealed by Acts 1917, ch. 125, sec. 6).

⁹⁰ 1 Rev. Stat. 1852, ch. 74, sec. 3 (repealed by Acts 1867, ch. 128, sec. 1).

⁹¹ Acts 1865 (Spec. Sess.), ch. 15, sec. 1. Acts 1877, ch. 43, sec. 1. Acts 1899, ch. 245, sec. 1. Acts 1901, ch. 180, sec. 1. Acts 1903, ch. 66, sec. 1. All of these laws were repealed by Acts 1935, ch. 162, sec. 276.

⁹² Rev. Stat. 1843, ch. 38, sec. 93.

⁹³ 1 Rev. Stat. 1852, ch. 10, sec. 30.

⁹⁴ Acts 1825, ch. 47, sec. 2. Rev. Laws 1831, ch. 11, sec. 6. Rev. Stat. 1838, ch. 10, secs. 6, 7.

⁹⁵ Acts 1817-18 (general), ch. 67, secs. 1, 2. Rev. Laws 1824, ch. 116. Rev. Laws 1831, ch. 110.

showing changes in routes of roads and canals;⁹⁶ filed bounty certificates,⁹⁷ bonds of ferrymen⁹⁸ and liquor dealers,⁹⁹ public contracts for support of paupers,¹⁰⁰ and enumerations of soldiers and sailors;¹⁰¹ and recorded limited partnerships¹⁰² and prison bounds.¹⁰³

The clerk serves ex officio as registration officer for the county¹⁰⁴ and as a member of the county election boards¹⁰⁵ and the county school fund board.¹⁰⁶ Formerly he was required to perform the duties of the office of school commissioner if there was no school commissioner.¹⁰⁷ Many duties of the clerk (not set out herein) were transferred to the auditor in 1841.¹⁰⁸

If on account of death, sickness, or other casualty the judge of the circuit court fails for 3 consecutive days to attend court during termtime, the auditor, sheriff, and clerk of the circuit court, acting together, may appoint a temporary judge to serve until the return of the regular judge or until his successor is named.¹⁰⁹

All funds received by the clerk must be deposited in a depository designated by the board of finance, and may be withdrawn by checks signed by the clerk or his authorized deputy.¹¹⁰ He reports to the county auditor and treasurer

⁹⁶ Rev. Stat. 1838, ch. 17, sec. 56.

⁹⁷ Acts 1816-17, ch. 23, sec. 3.

⁹⁸ Acts 1817-18 (general), ch. 45, sec. 8. Rev. Laws 1824, ch. 42, sec. 8. Rev. Laws 1831, ch. 38, sec. 5.

⁹⁹ Acts 1817-18 (general), ch. 47, secs. 2, 3. Rev. Laws 1824, ch. 107, sec. 1.

¹⁰⁰ Rev. Laws 1824, ch. 72, sec. 3. Rev. Laws 1831, ch. 69, sec. 2.

¹⁰¹ Acts 1835 (Spec. Sess.), ch. 97, secs. 1, 3 (both repealed by Acts 1895, ch. 100, sec.

1). Acts 1913, ch. 46, secs. 1, 2 (both repealed by Acts 1923, ch. 4, sec. 1).

¹⁰² Rev. Stat. 1838, ch. 78, secs. 5-7.

¹⁰³ Acts 1817-18 (general), ch. 32, sec. 1. Rev. Laws 1824, ch. 77, sec. 1. Rev. Laws 1831, ch. 75, sec. 1.

¹⁰⁴ Acts 1933, 1935; Burns, 1939 suppl., 29-306; Baldwin, 1935 suppl., 7304. See the essay entitled "Registration Officer."

¹⁰⁵ See the essays entitled "Board of Primary Election Commissioners", "County Board of Election Commissioners", and "County Board of Canvassers."

¹⁰⁶ Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558. See the essay entitled "County School Fund Board."

¹⁰⁷ Acts 1836-37 (general), ch. 21, sec. 1.

¹⁰⁸ See the essay entitled "Auditor."

¹⁰⁹ Acts 1881 (Spec. Sess.); Burns 4-3103; Baldwin 1261.

¹¹⁰ Acts 1937; Burns, 1939 suppl., 61-673, 61-674; Baldwin, 1937 suppl., 1438-1, 1438-2.

all fees and fines collected by him.¹¹¹ All moneys remaining in the office of the clerk for 10 years without being demanded by the parties entitled thereto are paid to the attorney general.¹¹²

The clerk keeps the official records of the circuit court,¹¹³ a cashbook,¹¹⁴ a daily balance record,¹¹⁵ and a register of fees received by him;¹¹⁶ and must preserve in his office all records and writings appertaining to his official duties.¹¹⁷ On request and payment of a fee therefor, the clerk furnishes certified copies of records and papers on file in his office.¹¹⁸

The state board of accounts (created in 1909) has prescribed forms for the following books to be used by the clerk: Cashbook of receipts and disbursements; daily balance record; entry and issue docket and fee book; estate entry claim and allowance docket and fee book; guardianship docket and fee book; register of fees and funds held in trust; support docket; index and record of receiverships; judgment docket; record of poultry dealers' licenses and applications therefor. Forms of printed blanks have also been prescribed.¹¹⁹

¹¹¹ Acts 1816-17, ch. 17, sec. 6; ch. 27, sec. 1. Acts 1817-18 (general), ch. 44, sec. 6; ch. 72, secs. 2, 3; ch. 79, sec. 1. Acts 1828-29, ch. 24, secs. 1, 2. Rev. Laws 1831, ch. 15, sec. 15. Acts 1841-42 (general), ch. 45, sec. 3. Rev. Stat. 1843, ch. 13, sec. 80; ch. 38, sec. 64. Acts 1891, ch. 294, sec. 125. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437.

¹¹² Acts 1933; Burns 49-2717, 49-2718; Baldwin 15177, 15178.

¹¹³ 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

¹¹⁴ Acts 1879 (Spec. Sess.); Burns 49-2722; Baldwin 1442.

¹¹⁵ Acts 1937; Burns, 1939 suppl., 61-633; Baldwin, 1937 suppl., 13844-44.

¹¹⁶ Acts 1909, ch. 10, sec. 1. Acts 1927; Burns 49-1301; Baldwin 7561. Acts 1879 (Spec. Sess.); Burns 49-2723; Baldwin 1443.

Probate fee book. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205; Baldwin 3014.

¹¹⁷ Acts 1817-18 (general), ch. 13, sec. 2; ch. 66, sec. 4. Rev. Laws 1824, ch. 10, sec. 1. Acts 1829-30, ch. 10, sec. 1. Rev. Laws 1831, ch. 15, sec. 1. Rev. Stat. 1843, ch. 38, sec. 50. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

¹¹⁸ Acts 1817-18 (general), ch. 13, sec. 13. 2 Rev. Stat. 1852; Burns 49-2707; Baldwin 1434.

¹¹⁹ Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

BONDS

OFFICIAL (see also entries 349-353)

24. OFFICIAL BOND INDEX RECORD, 1871-98. 1 vol. (1).

Discontinued.

Partial index to Record of Official Bonds, entry 25; Notary Public Bond Record, July 20, 1874-98, entry 27; Constable Bond Record, 1898, entry 29; Record of Justices' Bond, Oct. 1879-98, entry 30; Record of Bonds, Constables, Justices & Notary, 1871-97, entry 31; Administrator's Bond Record, entry 181; Executor's Bond, Oath & Letters, entry 182; Guardian's Bond, Oath & Letters, entry 183; Commissioner's Bond to Sell Real Estate, 1889-98, entry 184; Administrator's Bond to Sell Real Estate, May 27, 1896-98, entry 185; Guardian's Bond to Sell Real Estate, Apr. 19, 1882-98, entry 186; Administrators, Ex[ecutor]s & Guardians Bond &c to Sell Real Estate, 1871-May 26, 1896, entry 187, showing date and kind of bond, names of sureties, and volume and page reference to recording. Arr. alph. by names of sureties. Hdw. 400 pp. 18 x 12 x 3. Bsmt. vt., B-6.

25. RECORD OF OFFICIAL BONDS, 1854-. 2 vols. (1, 2).

Record of surety bonds posted by county and township officials, showing date, amount and conditions of bond, and names of office, official and sureties. Also contains: Notary Public Bond Record, 1854-63, entry 27; Constable Bond Record, 1854-63, 1931-, entry 29; Record of Justices' Bond, 1854-63, 1928-, entry 30. Arr. chron. by dates of bonds. Indexed alph. by names of officials; for separate index, 1871-98, see entry 24. Hdw. 500 pp. 18 x 12 x 2. Clk. off.

26. MISCELLANEOUS BONDS, 1935-. 1 f. d.

Original bonds posted by county officials, including:

- i. Official bonds, showing same information as in entry 25.
- ii. Constable bonds, showing same information as in entry 29.
- iii. Justice of peace bonds, showing same information as in entry 30.

Also contains: Notary Bonds, entry 28. Arr. chron. by dates of filing. No index. Hdw. and typed. 11 x 12 x 18. Clk. vt.

27. NOTARY PUBLIC BOND RECORD, July 20, 1874-. 7 vols. (2, 3, 1-5). 1854-63 in Record of Official Bonds, entry 25; 1864-May 25, 1874 in Record of Bonds, Constables, Justice's & Notary, entry 31.

Record of surety bonds posted by notaries public, showing

date, amount and conditions of bond, and names of notary and sureties. Arr. chron. by dates of bonds. Indexed alph. by names of notaries; for separate index, July 20, 1874-98, see entry 24. Hdw. 250 pp. 14 x 12 x 2. 2 vols., July 20, 1874-Feb. 5, 1907, bsmt. vt., B-6; 3 vols., Oct. 10, 1901-Jan. 23, 1926, bsmt. vt., B-13; 2 vols., Jan. 27, 1926-, clk. off.

28. NOTARY BONDS, 1915-34. 3 f. b. 1935- in Miscellaneous Bonds, entry 26.

Original surety bonds posted by notaries public, showing same information as in entry 27. Arr. chron. by dates of filing. No index. Hdw. and typed. 5 x 4 x 11. Bsmt. vt., B-13.

29. CONSTABLE BOND RECORD, 1893-1930. 1 vol. (1). 1854-63, 1931- in Record of Official Bonds, entry 25; 1864-97 in Record of Bonds, Constables, Justices & Notary, entry 31.

Record of surety bonds posted by constables, showing date, amount and conditions of bond, names of constable and sureties, and term of office. Arr. chron. by dates of bonds. Indexed alph. by names of constables; for separate index, 1898, see entry 24. Hdw. 250 pp. 18 x 13 x 2. Bsmt. vt., B-13.

30. RECORD OF JUSTICES' BOND, Oct. 1879-1927. 1 vol. (1). 1854-63, 1928- in Record of Official Bonds, entry 25; 1864-Sept. 1879 in Record of Bonds, Constables, Justices & Notary, entry 31.

Record of surety bonds posted by justices of the peace, showing date, amount and conditions of bond, names of justice, sureties and township, and term of office. Arr. chron. by dates of bonds. Indexed alph. by names of justices; for separate index, Oct. 1879-98, see entry 24. Hdw. 400 pp. 14 x 12 x 3. Bsmt. vt., B-13.

31. RECORD OF BONDS, CONSTABLES, JUSTICES & NOTARY, 1864-97. 1 vol.

Record of surety bonds posted by constables, justices of the peace and notaries public, showing date, amount and conditions of bond, and names of principal and sureties. This is a combination of three records later kept separately: Notary Public Bond Record, 1864-May 25, 1874, entry 27; Constable Bond Record, entry 29; Record of Justices' Bond, 1864-Sept. 1879, entry 30. Arr. chron. by dates of bonds. Indexed alph. by names of principals; for separate index of notarial bonds, 1871-May 25, 1874, constable bonds, 1871-97, and justices' bonds, 1871-Sept. 1879, see entry 24. Hdw. 300 pp. 18 x 12 x 2. Bsmt. vt., B-6.

32. ENTRY BOOK PROBATE [Register of Bonded Officials], 1828-56. 1 vol. (B).

Register of bonded county and township officials, showing dates of commission, qualifying and expiration of term, names of official, office and sureties, and amount of bond. Arr. alph. by names of officials. No index. Hdw. 400 pp. 14 x 9 x 2. Bsmt. vt., B-6.

COLLECTION AGENCY

33. COLLECTION AGENCY BOND RECORD, 1937-. 1 vol.

Record of surety bonds posted by collection agencies, showing date, amount and conditions of bond, names of principal and sureties, and location of business. Arr. chron. by dates of bonds. No index. Typed. 160 pp. 11 x 9 x 1. Clk. off.

LICENSES AND CERTIFICATES

MARRIAGE (see also entry 394)

34. RECORD MARRIAGE APPLICATIONS, 1822-. 34 vols. (1-34).
Title varies: Marriage Record, 1822-Aug. 9, 1930, 29 vols.

Record of marriage licenses and certificates of return, 1822-, and applications for licenses, Apr. 21, 1905-, showing dates of application, license, marriage and return, names, addresses, occupations, color, dates and places of birth and previous marital status of bride and groom, names, addresses and occupations of parents of bride and groom, names of witnesses, and name and title of person officiating. Also contains: Record of Marriage Affidavits, July 22, 1906-, entry 36. Arr. chron. by dates of licenses. Indexed alph. by names of brides and grooms. Hdw. 588 pp. 18 x 12 x 3. Clk. off.

35. MARRIAGE RETURNS, 1822-. 26 f. b.

Original marriage documents, including:

- i. Certificates of marriage, showing dates of license, marriage, certificate and filing, and names of bride, groom and person officiating.
- ii. Applications for marriage licenses, 1905-, showing dates of application, license and filing, names, addresses, occupations, color, dates and places of birth and previous marital status of bride and groom, names, addresses and occupations of parents of bride and groom, and names of witnesses.

Arr. chron. by dates of filing. No index. Hdw. 11 x 5 x 15. 24 f. b., 1822-1934, bsmt. vt., B-13; 2 f. b., 1935-, clk. off.

36. RECORD OF MARRIAGE AFFIDAVITS, 1843-Jan. 13, 1845, July 23, 1876-July 21, 1906. 10 vols. (one vol. not labeled, 2, 3, and seven vols. not labeled). July 22, 1906- in Record Marriage Applications, entry 34.

Record of affidavits as to residence and lawful age of applicants for marriage licenses and affidavits of consent to marriages of minors, showing date and nature of affidavit and names of applicants and affiant. Arr. chron. by dates of affidavits. No index. Hdw. 250 pp. 16 x 3 x 2. 9 vols., 1843-Jan. 13, 1845, July 23, 1876-Sept. 4, 1879, Sept. 18, 1881-July 21, 1906, bsmt. vt., B-6; 1 vol., Sept. 5, 1879-Sept. 17, 1881, bsmt. vt., B-13.

37. MARRIAGE RETURNS, 1882-Aug. 3, 1884. 2 vols.

Record of marriage certificates returned to clerk of circuit court, showing dates of marriage and return, names, addresses, occupations, ages, color, race, nationality, places of birth and number of marriages of bride and groom, names of witnesses and parents of bride and groom, place of marriage, and name and title of person officiating. Arr. chron. by dates of returns. No index. Hdw. 318 pp. 18 x 14 x 2. Bsmt. vt., B-6.

38. MARRIAGE LICENSE RECORD, 1882-Aug. 19, 1884. 2 vols. Stubs of marriage licenses issued by clerk of circuit court, showing date of license, names of bride and groom, and page reference to Record Marriage Applications, entry 34. Arr. chron. by dates of licenses. No index. Hdw. 250 pp. 18 x 16 x 2. 1 vol., 1882-May 12, 1883, bsmt. vt., B-6; 1 vol., May 4, 1883-Aug. 19, 1884, bsmt. vt., B-13.

PROFESSIONAL

39. RECORD OF PHYSICIAN'S LICENSE, 1885-. 2 vols.

Record of licenses issued to physicians to practice in county upon presentation of certificates issued by state board of medical registration and examination, showing dates of certificate and license, name and address of medical college attended, name, age, address and birthplace of physician, certificate number, and statement of qualifications. Arr. chron. by dates of licenses. Indexed alph. by names of physicians. Hdw. 250 pp. 13 x 12 x 2. 1 vol., 1885-May 5, 1897, bsmt. vt., B-13; 1 vol., May 6, 1897-, clk. off.

40. DENTISTS', NURSES' & PHYSICIANS' CERTIFICATES, 1926-. 1 f. b., 1 cabinet.

Original dentists', nurses' and physicians' certificates filed with the clerk to obtain licenses to practice in county, including:

- i. Physicians' certificates issued by state board of medical registration and examination, showing dates of certificate and filing, name and address of physician, name of medical college attended, subjects in which qualified, and certificate number.
- ii. Dentists' certificates issued by state board of dental examiners, showing dates of certificate and filing, name and address of dentist, name of dental college attended, and certificate number.
- iii. Nurses' certificates issued by state board of examination and registration of nurses, showing dates of certificate and filing, name and address of nurse, and certificate number.

Also contains: Powers of Attorney, 1937-, entry 58. Arr. chron. by dates of filing. No index. Hdw. and typed. F. b., 5 x 4 x 11; cabinet, 12 x 26 x 38. 1 f. b., 1926-33, bsmt. vt., B-12; 1 cabinet, 1934-, clk. vt.

41. RECORD DENTISTS CERT[ificate]S & LICENSES, 1899-. 1 vol. Last entry 1933.

Record of licenses issued to practice dentistry in county upon presentation of certificates issued by state board of dental examiners, showing dates and numbers of certificate and license, and name, age, date and place of birth and business address of dentist. Arr. chron. by dates of licenses. Indexed alph. by names of dentists. Hdw. 75 pp. 16 x 10 x 1/2. Bsmt. vt., B-6.

42. OPTOMETRY RECORD, 1907-. 1 vol. Last entry July 24, 1928.

Optometry certificates and record of licenses, including:

- i. Original certificates issued by state board of registration and examination in optometry, presented to clerk to obtain licenses, and pasted in volume, showing date and number of certificate and name and address of optometrist. Arr. chron. by dates of certificates.
- ii. Record of licenses issued to practice optometry in county, showing date of license and name of optometrist. Arr. chron. by dates of licenses.

Indexed alph. by names of optometrists. Hdw. and typed. 100 pp. 12 x 8 x 1. Clk. off.

43. TRAINED NURSES RECORD, 1921-. 1 vol. (1).

Register of trained nurses licensed to practice in county, showing date of registration, name and address of nurse, and name of training institution attended. Arr. chron. by dates

of registration. Indexed alph. by names of nurses. Hdw. 235 pp. 16 x 11 x 1. Clk. off.

44. VETERINARY RECORD, 1901-11. 1 vol. (1). Discontinued. Record of applications for and issuance of licenses to practice veterinary medicine and surgery upon presentation of diplomas from veterinary colleges or freeholders' affidavits certifying 5 years former practice, showing dates of diplomas or affidavit and license, and names of veterinary, college attended and freeholders. Arr. chron. by dates of license. Indexed alph. by names of veterinaries. Hdw. 100 pp. 16 x 12 x 1. Bsmt. vt., B-13.

COMMERCIAL

45. RECORD OF PARTNERSHIP CERTIFICATES, 1909-. 1 vol. Record of partnership certificates filed with clerk by persons and firms engaged in business under names other than their own, showing date of filing, name of firm or partnership, names and addresses of members, nature and location of business, and certificate number. Arr. chron. by dates of filing. Indexed alph. by names of firms and partnerships. Hdw. 400 lpp. 8 x 12 x 3. Clk. off.

46. CERTIFICATES OF PARTNERSHIP, 1907-. 2 f. b. Original certificates of partnership filed with clerk by persons and firms engaged in business under names other than their own, showing same information as in entry 45. Arr. chron. by dates of filing. No index. Hdw. and typed. 5 x 4 x 11. 1 f. b., 1907-37, bsmt. vt., B-13; 1 f. b., 1938-, clk. vt.

47. JUNK DEALER'S LICENSE RECORD, 1923-. 1 vol. (2). Record of applications for and issuance of licenses to purchase junk in county, showing dates of application, license and recording, name and address of dealer, location of business, and duration of license. Arr. chron. by dates of recording. Indexed alph. by names of dealers. Hdw. 325 pp. 16 x 12 x 3. Clk. off.

48. RECORD OF POULTRY DEALER'S LICENSE, 1933-. 1 vol. Record of applications for and issuance of licenses to purchase poultry in state, showing dates of application and license, names of applicant and dealer, location of business, and duration of license. Arr. chron. by dates of licenses. Indexed alph. by names of dealers. Hdw. 250 pp. 16 x 12 x 2. Clk. off.

49. RECORD OF INSURANCE, 1891-98, 1911-19. 2 vols. (one vol. not labeled, 1). Discontinued. Title varies: Order Book, Insurance Certificates, 1891-98, 1 vol. 1877-90, 1899-1910 in Order Book, entry 137.

Record of certificates issued by auditor of state and filed with clerk, authorizing agents of foreign insurance companies to transact business in county, showing dates of filing and expiration of certificate, name, address and financial statement of company, and name of agent. Arr. chron. by dates of filing. 1891-98, indexed alph. by names of companies; 1911-19, indexed alph. by names of companies and agents. Hdw. 300 pp. 16 x 12 x 2. Bsmt. vt., B-13.

50. PETTY MONEY LENDERS LICENSE RECORD, 1914-Nov. 10, 1916. 1 vol. Discontinued.

Record of petty money lenders' licenses issued by clerk, showing date and duration of license, name of licensee, and location and description of place of business. Arr. chron. by dates of licenses. Indexed alph. by names of licensees. Hdw. 220 pp. 14 x 10 x 1. Bsmt. vt., B-6.

HUNTING, FISHING, AND TRAPPING

51. [HUNTING, FISHING AND TRAPPING LICENSES], 1938-. 2 cartons.

Stubs of hunting, fishing and trapping licenses, showing date, number and duration of license, and name, age, address and description of licensee. This is a combination of three records formerly kept separately: [Resident Hunting, Fishing and Trapping License], entry 52; [Non-resident Fishing License], entry 53; [Permanent Free Permits], entry 54. Arr. num. by license nos. No index. Hdw. 11 x 11 x 4½. Clk. vt.

52. [RESIDENT HUNTING, FISHING AND TRAPPING LICENSE], 1935-37. 185 vols. 1938- in [Hunting, Fishing and Trapping Licenses], entry 51.

Stubs of resident hunting, fishing and trapping licenses, showing same information as in entry 51. Arr. num. by license nos. No index. Hdw. 25 pp. 5 x 9 x ½. Bsmt. vt., B-13.

53. [NON-RESIDENT FISHING LICENSE], 1935-37. 2 vols. 1938- in [Hunting, Fishing and Trapping Licenses], entry 51.

Stubs of fishing licenses issued to non-residents of state, showing same information as in entry 51. Arr. num. by license nos. No index. Hdw. 25 pp. 5 x 9 x ½. Bsmt. vt., B-13.

54. [PERMANENT FREE PERMITS], 1935-37. 2 vols. 1938- in [Hunting, Fishing and Trapping Licenses], entry 51. Stubs of permanent free permits to hunt, fish and trap without licenses, issued to veterans, showing date and number of license, name, age, address and description of veteran, and branch of service and war. Arr. num. by permit nos. No index. Hdw. 50 pp. 2 x 6 x 1/2. Bsmt. vt., B-13.

FIREARMS

55. APPLICATIONS FOR FIREARM PERMITS, 1927-. 5 f. b. Original applications for firearm permits, showing dates of application and filing, name, age, address and description of applicant, description of firearm, reason for issuance, duration of permit, and application number. Arr. chron. by dates of filing. No index. Hdw. 5 x 4 x 11. 3 f. b., 1927-35, bsmt. vt., B-13; 2 f. b. 1936-, clk. off.

56. PERMITS FOR FIREARMS, 1925-. 9 vols. Duplicate of permits to carry firearms, showing date of permit, name, address and physical description of person granted permit, make, caliber, model and number of firearm, and duration and reason for issuance of permit. Arr. chron. by dates of permits. No index. Hdw. 100 pp. 10 x 8 x 1. 4 vols., 1925-Nov. 14, 1932, bsmt. vt., B-13; 5 vols., Nov. 15, 1932-, clk. off.

MISCELLANEOUS

57. ESTRAY RECORD, 1822-. 5 vols. (A-C, 1, 2). Transcripts of notices of finding and taking up of estrayed animals, reported to clerk by justices of the peace, and appraisers' reports, showing dates of finding, posting notice and filing, names of finder and appraisers, description and appraised valuation of animal, cost of keeping animal, and sheriff's return. Arr. chron. by dates of filing. No index. Hdw. 150 pp. 14 x 12 x 1. 4 vols., 1822-1926, bsmt. vt., B-6; 1 vol., 1927-, clk. off.

58. POWERS OF ATTORNEY, 1915-36. 1 f. b. 1937-in Dentists', Nurses' & Physicians' Certificates, entry 40. Original authorizations of power of attorney, showing dates of document and filing, names of principal and agent, and limitation of power granted. Arr. chron. by dates of filing. No index. Hdw. and typed. 5 x 4 x 11. Bsmt. vt., B-13.

59. RAILWAY POLICE RECORD, 1925-26. 1 vol. (1). Record of commissions and oaths of office of railway police

commissioned by governor, showing dates of commission and oath, names of policeman and railway company, policeman's oath, and duration of commission. Arr. chron. by dates of commissions. Indexed alph. by names of policemen. Hdw. 100 pp. 16 x 11 x 1. Bsmt. vt., B-13.

RECEIPTS AND DISBURSEMENTS

60. DAILY BALANCE AND CASH STATEMENT, 1920-. 3 vols. (2-4).

Record of periodic balances and cash statements, showing date of statement, amounts of prior balance, receipts, deposits, withdrawals and balance, and names of depositories. Arr. chron. by dates of statements. No index. Hdw. 350 pp. 12 x 10 x 2. 1 vol., 1920-July 27, 1928, bsmt. vt., B-13; 2 vols., July 28, 1928-, clk. off.

61. CASH BOOK OF RECEIPTS AND DISBURSEMENTS, 1903-11, 1927-. 7 vols. (two vols. not labeled, 1-5). Title varies: Cash Book, 1903-11, 2 vols.

Daily record of all cash received and disbursed by clerk, showing date, amount and nature of receipt or disbursement, names of payer or payee, depository and fund, and receipt or check number. This is a combination of two records intercurrently kept separately: Cash Book of Receipts, entry 62 and Cash Book of Disbursements, entry 63. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 300 pp. 18 x 24 x 2. 2 vols., 1903-11, bsmt. vt., B-6; 2 vols., 1927-Jan. 24, 1934, bsmt. vt., B-13; 3 vols., Jan. 25, 1934-, clk. off.

62. CASH BOOK OF RECEIPTS, 1912-26. 3 vols. (1-3). 1903-11, 1927- in Cash Book of Receipts and Disbursements, entry 61.

Daily record of all cash received by clerk, showing date, amount and nature of receipt, names of payer and fund, and receipt number. Arr. chron. by dates of receipts. No index. Hdw. 300 pp. 18 x 12 x 2. Bsmt. vt., B-13.

63. CASH BOOK OF DISBURSEMENTS, 1912-26. 2 vols. (1, 2). 1903-11, 1927- in Cash Book of Receipts and Disbursements, entry 61.

Daily record of all cash disbursed by clerk, showing date, amount and nature of disbursement, names of payee and depository, and check number. Arr. chron. by dates of disbursements. No index. Hdw. 250 pp. 18 x 12 x 2. Bsmt. vt., B-13.

64. REGISTER OF FEES AND FUNDS HELD IN TRUST, 1875-1910, 1915-. 7 vols. (two vols. not labeled, 3, 5-8). Title varies: Register of Witness and Other Fees, 1875-83, 1 vol.; Register of Witness Fees, 1884-1910, 2 vols.

Daily record of receipts and disbursements of fees and funds held in trust pending proper disbursement, showing date and amount of receipt or disbursement, names of payee, plaintiff and defendant, and cause and check numbers. Arr. alph. by names of payees. No index. Hdw. 300 pp. 18 x 12 x 3. 2 vols., 1875-83, 1915-18, bsmt. vt., B-13; 2 vols., 1884-1910, bsmt. vt., B-6; 3 vols., 1919-, clk. off.

65. RECEIPTS CLERK, 1934-. 10 vols.

Stubs of cash receipts issued by clerk, showing date and amount of receipt, name of payer, and nature of payment. Arr. chron. by dates of receipts. No index. Hdw. 200 pp. 18 x 12 x 1. 4 vols., 1934-Jan. 27, 1937, bsmt. vt., B-13; 6 vols., Jan. 28, 1937-, clk. off.

66. RECORD [Docket Fees], 1860-77. 1 vol. (1).

Record of clerk's reports of docket fees and fines collected and paid over to treasurer, showing dates of report and payment to treasurer, title of cause, amounts of collection, and total collected and paid to treasurer. Arr. chron. by dates of reports. No index. Hdw. 300 pp. 18 x 12 x 2. Bsmt. vt., B-6.

IV. RECORDER

LEGAL STATUS

The office of recorder exists under the mandatory provisions of the Constitution of 1851, and has existed in Shelby County since its organization in 1822. The recorder is elected for a 4-year term by the voters of the county.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ No person is

¹ Const. 1816, art. 11, sec. 10. Const. 1851, art. 6, sec. 2. Acts 1816-17, ch. 19, sec. 1. Acts 1821-22, ch. 31, secs. 1, 2. Rev. Stat. 1838, ch. 85, sec. 1. Rev. Stat. 1843, ch. 4, secs. 2, 8; ch. 5, sec. 1; ch. 8, sec. 1. 1 Rev. Stat. 1852, Acts 1901; Burns 49-3201; Baldwin 5469.

² Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3.

eligible to the office for more than 8 years in any 12-year period.⁴ The recorder must be an elector of the county at the time of his election, must have been an inhabitant thereof during the preceding year,⁵ must reside within the county after his election, must not hold any other lucrative office,⁶ and must not practice law.⁷ He must post bond in the amount of \$4,000, to be approved by the board of commissioners and filed with the clerk of the circuit court.⁸ The recorder must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.⁹ Under the Constitution of 1816 (which created the office in every county then or thereafter organized), the recorder was elected for a 7-year term and could hold the office of clerk of the circuit court.¹⁰

The recorder receives a regular salary of \$1,320 per year.¹¹ He is permitted to retain, as compensation for himself, in addition to his regular salary, 20 percent of the fees collected by him, provided the total amount of fees so retained be not more than \$4,680.¹²

For sufficient legal grounds the recorder may be removed from office by the circuit court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹³ If the recorder is convicted of a felony the

⁴ *Ibid.*, art. 6, sec. 2. Carson v. McPhetridge (1860), 15 Ind. 327.

⁵ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁶ Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6.

⁷ Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1905; Burns 10-3102; Baldwin 2636. McCracken v. State (1867), 27 Ind. 491.

⁸ Rev. Laws 1831, ch. 77, secs. 2, 3. Rev. Stat. 1838, ch. 85, secs. 2, 3. Rev. Stat. 1843, ch. 4, secs. 86, 90; ch. 8, secs. 2, 3. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 1 Rev. Stat. 1852, Acts 1901; Burns 49-3201; Baldwin 5469. State *ex rel.* Lowry v. Davis (1884), 96 Ind. 539; State *ex rel.* Lowry v. Davis (1889), 117 Ind. 307, 20 N. E. 159.

⁹ Const. 1816, art. 11, sec. 6. Const. 1851, art. 15, sec. 4. Rev. Stat. 1843, ch. 4, secs. 77, 78, 81-84, 92; ch. 8, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

¹⁰ Const. 1816, art. 11, sec. 10. Rev. Stat. 1843, ch. 4, sec. 62.

¹¹ Acts 1933; Burns 49-1004; Baldwin 7534.

¹² Acts 1933; Burns 49-1001, 49-1005, 49-1009; Baldwin 7531, 7535, 7539. Acts 1933, 1937; Burns, 1939 suppl., 49-1009; Baldwin, 1937 suppl., 7539. Shilling v. State *ex rel.* Board of County Comrs. (1901), 158 Ind. 185, 62 N. E. 49.

¹³ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

judgment of conviction must declare his office vacant.¹⁴

Any vacancy in the office of recorder is filled through appointment by the board of commissioners. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), a recorder is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take an oath and post bond, as was required of his predecessor, and holds office until his successor is elected and qualified.¹⁵

The recorder may appoint deputies and assistants under authority from the board of commissioners. One deputy may be appointed without such authorization. The county council fixes the salaries of the deputies and assistants, which must be not less than \$75 nor more than \$200 per month.¹⁶ The recorder may require any deputy to give bond.¹⁷ The deputies must take the oath required of the recorder, may perform all of the official duties of the recorder, and are subject to the same regulations and penalties.¹⁸ The recorder may remove such deputies and assistants at any time, and is responsible for their official acts.¹⁹

FUNCTIONS AND RECORDS

In specific books and files (other than the miscellaneous record) the recorder records the following documents: Deeds;²⁰

¹⁴ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁵ Const. 1851, art. 6, sec. 9. Rev. Laws 1824, ch. 36, sec. 1. Rev. Stat. 1838, ch. 85, sec. 14, Rev. Stat. 1843, ch. 4, sec. 155; ch. 8, sec. 16. Acts 1881 (Spec. Sess.): Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. Hadley v. Board of County Comrs. (1835), 4 Blackf. 131; Douglass v. State *ex rel.* Wright (1869), 31 Ind. 429. State *ex rel.* Ault v. Long (1883), 91 Ind. 351. Interview of July 11, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹⁶ Rev. Stat. 1838, ch. 85, sec. 11. Rev. Stat. 1843, ch. 8, sec. 13. 1 Rev. Stat. 1852. Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532. *Opinions of the Attorney General of Indiana, 1934*, p. 256; 1937, p. 324.

¹⁷ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

¹⁸ 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

¹⁹ Rev. Stat. 1838, ch. 85, sec. 11. Rev. Stat. 1843, ch. 8, sec. 13. 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

²⁰ Acts 1807, ch. 18, secs. 1, 8, 9. Acts 1817-18 (general), ch. 28, secs. 1, 10. Acts 1819-20, ch. 65, sec. 2. Rev. Laws 1831, ch. 41, sec. 7; ch. 77, secs. 1, 4. Acts 1836-37 (general), ch. 9, secs. 9-16. Rev. Stat. 1838, ch. 44, sec. 7; ch. 85, secs. 1, 4. Rev. Stat. 1843, ch. 8, secs. 5, 9;

land patents;²¹ mortgages; releases and assignments of mortgages;²² maps and plats;²³ decrees of the circuit court

ch. 28, secs. 24, 25, 48. 1 Rev. Stat. 1852; Burns 49-3210, 56-118, 56-131; Baldwin 5475, 14664, 14665. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671. Lowry v. Smith (1884), 97 Ind. 465.

Cemetery records. Rev. Stat. 1843, ch. 25, secs. 62-65. Acts 1925; Burns 21-223; Baldwin 4648. 1 Rev. Stat. 1852; Burns 25-1521, 25-1522; Baldwin 10500, 10602.

Wabash and Erie Canal deeds. Acts 1881 (Spec. Sess.); Burns 2-1626; Baldwin 267.

Deeds of commissioners appointed by court to make conveyance. Acts 1881 (Spec. Sess.); Burns 3-1008; Baldwin 894.

Tax deeds (1843 to date) and tax certificates (1843 to 1881). Rev. Stat. 1843, ch. 12, sec. 159. 1 Rev. Stat. 1852, ch. 6, sec. 197. Acts 1881 (Spec. Sess.), ch. 96, secs. 195, 211. Acts 1919, ch. 59, secs. 263, 284.

Deeds of school lands and deeds connected with school fund loans. Rev. Stat. 1838, ch. 94 (12), sec. 7. Rev. Stat. 1843, ch. 13, secs. 44, 49. Acts 1899; Burns 28-255; Baldwin 6607.

²¹ "May be recorded as other deeds and conveyances." Acts 1881; Burns 2-1632; Baldwin 271.

²² Acts 1817-18 (general), ch. 28, sec. 1. Acts 1825-26, ch. 42, sec. 17. Rev. Laws 1831, ch. 41, sec. 7; ch. 77, sec. 1. Rev. Stat. 1838, ch. 44, secs. 7, 12; ch. 85, secs. 1, 4, 8, 9. Rev. Stat. 1843, ch. 8, secs. 5, 9; ch. 28, secs. 26, 27, 48; ch. 29, secs. 52, 63, 69-71. Acts 1909, 1917, 1923; Burns 2-617; Baldwin 61-2 (repealed by Acts 1937, ch. 97, sec. 4). Acts 1937; Burns, 1939 suppl., 2-625; Baldwin, 1937 suppl., 61-2c. Acts 1905; Burns 49-3202, 49-3204; Baldwin 5476, 5473. 1 Rev. Stat. 1852; Burns 49-3210; Baldwin 5475. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671. 1 Rev. Stat. 1852; Burns 56-122; Baldwin 14673. 2 Rev. Stat. 1852; Burns 56-705, 56-706; Baldwin 989, 992. Acts 1901; Burns 56-709, 56-710; Baldwin 993, 994. Acts 1925; Burns 56-712, 56-713; Baldwin 10575, 10576. 2 Rev. Stat. 1852, Acts 1877; Burns 56-715; Baldwin 996. Acts 1877; Burns 56-716; Baldwin 998. Acts 1899; Burns 56-717; Baldwin 997. Anderson Bldg. & L. Sav. Assn. v. Thompson (1881), 87 Ind. 278; Mechanics' Bldg. Assn. v. Whitacre (1884), 92 Ind. 547; Chandler v. Scott (1891), 127 Ind. 226, 26 N. E. 797; State *ex rel.* McCoy v. Krost (1894), 140 Ind. 41, 39 N. E. 46.

Chattel mortgages before 1935 (old system). Rev. Stat. 1838, ch. 85 (first act), sec. 1; ch. 85 (second act), sec. 1. 1 Rev. Stat. 1852, Acts 1897; Burns 33-301, 33-302; Baldwin 8373, 8374 (first section repealed by Acts 1935, ch. 147, sec. 20).

Chattel mortgages and chattel mortgage minute book since 1935. Acts 1925; Burns, 1939 suppl., 51-504 to 51-517; Baldwin, 1935 suppl., 13227-4 to 13227-17.

School fund loans. Acts 1836-37 (general), ch. 2, sec. 10. Rev. Stat. 1838, ch. 85, sec. 10. Acts 1865; Burns 28-233; Baldwin 6583. Stockwell v. State *ex rel.* Johnson (1885), 101 Ind. 1.

Mortgages held by county agent. Rev. Stat. 1838, ch. 89, sec. 15.

Mortgages were recorded only in the deed record before 1848.

²³ Rev. Laws 1831, ch. 77, sec. 7. Rev. Stat. 1838, ch. 85, sec. 12. Rev. Stat. 1843, ch. 8, sec. 14. 1 Rev. Stat. 1852, ch. 9. Acts 1881 (Spec. Sess.); Burns 6-1127; Baldwin 3168. Acts 1925; Burns 21-219 to 21-221, 21-225, 21-226, 21-228; Baldwin 4644 to 4646, 4650, 4651, 4653. 1 Rev. Stat. 1852; Burns 25-1522; Baldwin 10602. Acts 1905; Burns 48-801, 48-802; Baldwin 12473, 12474. 1 Rev. Stat. 1852; Burns 49-3232; Baldwin 5432.

Maps and plats were recorded in the deed record before 1851.

quieting titles to lands;²⁴ old-age assistance awards;²⁵ probated wills;²⁶ discharges from military service;²⁷ powers of attorney;²⁸ partitions of real estate under judicial proceedings;²⁹ newspapers published in the county;³⁰ farm names;³¹ inheritance tax receipts;³² and statutory liens for services of stallions.³³ Formerly leases of lands³⁴ and statutory liens of laborers and materialmen³⁵ were recorded in specific books.

The recorder keeps a miscellaneous record in which he records the following documents: Surveys establishing a meridian line;³⁶ surveyor's field notes;³⁷ leases of lands;³⁸

²⁴ Acts 1911; Burns 3-1409; Baldwin 968.

The 1911 law requires the recording in a substantially bound book to be known as the "Quiet Title Record", and requires an index for that record. *Ibid.* Decrees quieting titles were recorded in the quiet title record from 1911 until 1930 and in the deed record since 1930. The index for such decrees has appeared only in the general index of deeds.

²⁵ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1207; Baldwin, 1937 suppl., 14078-38.

²⁶ Acts 1891; Burns 7-712; Baldwin 3413.

Wills probated in another county should be recorded in the deed record. Acts 1933; Burns 7-713; Baldwin 3414.

Probated wills were recorded only in the deed record before 1877.

²⁷ Acts 1925; Burns 59-1002 to 59-1004; Baldwin 11002 to 11004.

The law requires the recording in a separate book and requires an index thereto. *Ibid.*

²⁸ Acts 1831 (Spec. Sess.), 1891; Burns 2-2519; Baldwin 391. Acts 1883; Burns 49-1309, 56-108, 56-109; Baldwin 14732, 14729, 14732. 1 Rev. Stat. 1852; Burns 56-106, 56-107, 56-137; Baldwin 14730, 14731.

Powers of attorney were recorded in the miscellaneous record before 1878.

²⁹ Acts 1859, ch. 103. Acts 1907, ch. 80. Acts 1919; Burns 64-518; Baldwin 15555.

Such partitions were recorded only in the deed record before 1876.

³⁰ 1 Rev. Stat. 1852; Burns 26-626 to 26-628; Baldwin 5285 to 5287.

³¹ Acts 1913; Burns 49-3226 to 49-3230; Baldwin 5488 to 5492.

³² Acts 1913, ch. 47, sec. 21.

This act, which was superseded by Acts 1931, ch. 75, provided that such receipts be recorded in a book labeled "Transfer Tax."

³³ Acts 1889, ch. 116, sec. 4. Acts 1913, 1933; Burns 16-910; Baldwin 3793.

³⁴ See footnote 38 herein.

³⁵ See footnote 41 herein.

³⁶ Acts 1895; Burns 49-3327 to 49-3329; Baldwin 10849 to 10851.

³⁷ Acts 1828-29, ch. 94, sec. 1. Rev. Laws 1831, ch. 102, sec. 7. Rev. Stat. 1843, ch. 10, secs. 10, 11, 14. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

³⁸ Rev. Stat. 1843, ch. 26, sec. 25. 1 Rev. Stat. 1852; Burns 56-118; Baldwin 14664. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671.

leases of rolling stock and equipment of railroads;³⁹ conditional sales of fixtures;⁴⁰ statutory liens of laborers, materialmen,⁴¹ and transfermen;⁴² marks and brands of animals;⁴³ fence marks;⁴⁴ official bonds of the clerk of the circuit court;⁴⁵ charters and proceedings of corporations and associations;⁴⁶ limited partnerships;⁴⁷ statutory statements of express companies;⁴⁸ certificates revoking the admission of foreign corporations to do business in this state;⁴⁹ federal tax lien notices and releases thereof;⁵⁰ contracts waiving liens of laborers, materialmen, and building contractors;⁵¹

Miscellaneous record specified. Acts 1897; Burns 56-120.

Leases were recorded in the miscellaneous record from 1856 until 1880, in the lease record from 1881 to 1895, and in the miscellaneous record since 1895.

³⁹ Acts 1891; Burns 55-3716 to 55-3718; Baldwin 15449 to 15451.

⁴⁰ Acts 1935; Burns, 1939 suppl., 58-806, 58-809 to 58-811; Baldwin, 1935 suppl., 14857-5, 14857-8 to 14857-10.

The law requires that a separate record be kept. *Ibid.*

⁴¹ Rev. Stat. 1838, ch. 69, sec. 7. Rev. Stat. 1843, ch. 42, sec. 5. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 650, p. 182. Acts 1867, ch. 36, sec. 2. Acts 1883, ch. 115, sec. 4. Acts 1909; Burns 43-703, 43-704; Baldwin 10507, 10508. State *ex rel.* Lyons v. Phillips (1901), 157 Ind. 481, 62 N. E. 12.

Corporation employees Acts 1877 (Spec. Sess.); Burns 43-302; Baldwin 10547.

Such liens were recorded in the deed record before 1853 and in the mechanic's lien record from 1853 until 1893.

⁴² Acts 1921, 1929; Burns 43-1002, 43-1003; Baldwin 10529, 10530.

⁴³ Acts 1835-36 (general), ch. 24, sec. 1. Rev. Stat. 1838, ch. 85, sec. 6. Rev. Stat. 1843, ch. 8, secs. 11, 12. 1 Rev. Stat. 1852; Burns 49-3231; Baldwin 5474.

⁴⁴ Acts 1877 (Spec. Sess.); Burns 30-510; Baldwin 7630.

⁴⁵ Rev. Laws 1831, ch. 15, sec. 5. Rev. Stat. 1838, ch. 17. Rev. Stat. 1843, ch. 4, sec. 89. 1 Rev. Stat. 1852; Burns 49-106; Baldwin 13066.

⁴⁶ Acts 1820-21, ch. 20, sec. 1. Rev. Laws 1824, ch. 64, secs. 1, 7; ch. 87, secs. 7, 9. Acts 1929; Burns 25-219, 25-228, 25-235, 25-241, 25-242, 25-305, 25-309, 25-311; Baldwin 4919, 4928, 4935, 4941 4942, 4963, 4967, 4969. Acts 1883; Burns 25-2002; Baldwin 10681. Acts 1909; Burns 25-3602; Baldwin 9280-2.

⁴⁷ Such documents are required to be recorded "in a book to be kept for that purpose." Rev. Stat. 1843, ch. 32, sec. 4. Acts 1959; Burns 50-104, 50-106, 50-112; Baldwin 13195, 13197, 13209.

⁴⁸ Acts 1879 (Spec. Sess.); Burns 55-4102; Baldwin 14401.

⁴⁹ Acts 1929; Burns 25-311; Baldwin 4969.

⁵⁰ Acts 1925; Burns 49-3221 to 49-3225; Baldwin 10570 to 10574.

The law requires recording in a file labeled "Federal Tax Lien Notices" and requires the keeping of an index book labeled "Federal Tax Lien Index." *Ibid.*

⁵¹ Acts 1921, ch. 56, sec. 1.

The law requires the recording by the recorder "in books provided by him for that purpose" and requires an index thereto "in books kept for that purpose." *Ibid.*

quieting titles to lands;²⁴ old-age assistance awards;²⁵ probated wills;²⁶ discharges from military service;²⁷ powers of attorney;²⁸ partitions of real estate under judicial proceedings;²⁹ newspapers published in the county;³⁰ farm names;³¹ inheritance tax receipts;³² and statutory liens for services of stallions.³³ Formerly leases of lands³⁴ and statutory liens of laborers and materialmen³⁵ were recorded in specific books.

The recorder keeps a miscellaneous record in which he records the following documents: Surveys establishing a meridian line;³⁶ surveyor's field notes;³⁷ leases of lands;³⁸

²⁴ Acts 1911; Burns 3-1409; Baldwin 968.

The 1911 law requires the recording in a substantially bound book to be known as the "Quiet Title Record", and requires an index for that record. *Ibid.* Decrees quieting titles were recorded in the quiet title record from 1911 until 1930 and in the deed record since 1930. The index for such decrees has appeared only in the general index of deeds.

²⁵ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1207; Baldwin, 1937 suppl., 14078-38.

²⁶ Acts 1891; Burns 7-712; Baldwin 3413.

Wills probated in another county should be recorded in the deed record. Acts 1933; Burns 7-713; Baldwin 3414.

Probated wills were recorded only in the deed record before 1877.

²⁷ Acts 1925; Burns 59-1002 to 59-1004; Baldwin 11002 to 11004.

The law requires the recording in a separate book and requires an index thereto. *Ibid.*

²⁸ Acts 1881 (Spec. Sess.), 1891; Burns 2-2519; Baldwin 391. Acts 1883; Burns 49-1309, 56-108, 56-109; Baldwin 14733, 14729, 14732. 1 Rev. Stat. 1852; Burns 56-106, 56-107, 56-137; Baldwin 14730, 14731.

Powers of attorney were recorded in the miscellaneous record before 1878.

²⁹ Acts 1859, ch. 103. Acts 1907, ch. 80. Acts 1919; Burns 64-518; Baldwin 15555.

Such partitions were recorded only in the deed record before 1876.

³⁰ 1 Rev. Stat. 1852; Burns 26-626 to 26-628; Baldwin 5285 to 5287.

³¹ Acts 1913; Burns 49-3226 to 49-3230; Baldwin 5488 to 5492.

³² Acts 1913, ch. 47, sec. 21.

This act, which was superseded by Acts 1931, ch. 75, provided that such receipts be recorded in a book labeled "Transfer Tax."

³³ Acts 1889, ch. 116, sec. 4. Acts 1913, 1933; Burns 16-910; Baldwin 3793.

³⁴ See footnote 38 herein.

³⁵ See footnote 41 herein.

³⁶ Acts 1895; Burns 49-3327 to 49-3329; Baldwin 10849 to 10851.

³⁷ Acts 1828-29, ch. 94, sec. 1. Rev. Laws 1831, ch. 102, sec. 7. Rev. Stat. 1843, ch. 10, secs. 10, 11, 14. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5170. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

³⁸ Rev. Stat. 1843, ch. 28, sec. 25. 1 Rev. Stat. 1852; Burns 56-118; Baldwin 14664. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671.

leases of rolling stock and equipment of railroads;³⁹ conditional sales of fixtures;⁴⁰ statutory liens of laborers, materialmen,⁴¹ and transfermen;⁴² marks and brands of animals;⁴³ fence marks;⁴⁴ official bonds of the clerk of the circuit court;⁴⁵ charters and proceedings of corporations and associations;⁴⁶ limited partnerships;⁴⁷ statutory statements of express companies;⁴⁸ certificates revoking the admission of foreign corporations to do business in this state;⁴⁹ federal tax lien notices and releases thereof;⁵⁰ contracts waiving liens of laborers, materialmen, and building contractors;⁵¹

Miscellaneous record specified. Acts 1897; Burns 56-120.

Leases were recorded in the miscellaneous record from 1856 until 1880, in the lease record from 1881 to 1895, and in the miscellaneous record since 1895.

³⁹ Acts 1891; Burns 55-3716 to 55-3718; Baldwin 15449 to 15451.

⁴⁰ Acts 1935; Burns, 1939 suppl., 58-806, 58-809 to 58-811; Baldwin, 1935 suppl., 14857-5, 14857-8 to 14857-10.

The law requires that a separate record be kept. *Ibid.*

⁴¹ Rev. Stat. 1838, ch. 69, sec. 7. Rev. Stat. 1843, ch. 42, sec. 5. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 650, p. 182. Acts 1867, ch. 36, sec. 2. Acts 1883, ch. 115, sec. 4. Acts 1909; Burns 43-703, 43-704; Baldwin 10507, 10508. State *ex rel.* Lyons v. Phillips (1901), 157 Ind. 481, 62 N. E. 12.

Corporation employees Acts 1877 (Spec. Sess.); Burns 43-302; Baldwin 10547.

Such liens were recorded in the deed record before 1853 and in the mechanic's lien record from 1853 until 1893.

⁴² Acts 1921, 1929; Burns 43-1002, 43-1003; Baldwin 10529, 10530.

⁴³ Acts 1835-36 (general), ch. 24, sec. 1. Rev. Stat. 1838, ch. 85, sec. 6. Rev. Stat. 1843, ch. 8, secs. 11, 12. 1 Rev. Stat. 1852; Burns 49-3231; Baldwin 5474.

⁴⁴ Acts 1877 (Spec. Sess.); Burns 30-510; Baldwin 7630.

⁴⁵ Rev. Laws 1831, ch. 15, sec. 5. Rev. Stat. 1838, ch. 17. Rev. Stat. 1843, ch. 4, sec. 89. 1 Rev. Stat. 1852; Burns 49-106; Baldwin 13066.

⁴⁶ Acts 1820-21, ch. 20, sec. 1. Rev. Laws 1824, ch. 64, secs. 1, 7; ch. 87, secs. 7, 9. Acts 1929; Burns 25-219, 25-228, 25-235, 25-241, 25-242, 25-305, 25-309, 25-311; Baldwin 4919, 4928, 4935, 4941 4942, 4963, 4967, 4969. Acts 1883; Burns 25-2002; Baldwin 10631. Acts 1909; Burns 25-3602; Baldwin 9280-2.

⁴⁷ Such documents are required to be recorded "in a book to be kept for that purpose." Rev. Stat. 1843, ch. 32, sec. 4. Acts 1859; Burns 50-104, 50-106, 50-112; Baldwin 13195, 13197, 13209.

⁴⁸ Acts 1879 (Spec. Sess.); Burns 55-4102; Baldwin 14401.

⁴⁹ Acts 1929; Burns 25-311; Baldwin 4969.

⁵⁰ Acts 1925; Burns 49-3221 to 49-3225; Baldwin 10570 to 10574.

The law requires recording in a file labeled "Federal Tax Lien Notices" and requires the keeping of an index book labeled "Federal Tax Lien Index." *Ibid.*

⁵¹ Acts 1921, ch. 56, sec. 1.

The law requires the recording by the recorder "in books provided by him for that purpose" and requires an index thereto "in books kept for that purpose." *Ibid.*

quieting titles to lands;²⁴ old-age assistance awards;²⁵ probated wills;²⁶ discharges from military service;²⁷ powers of attorney;²⁸ partitions of real estate under judicial proceedings;²⁹ newspapers published in the county;³⁰ farm names;³¹ inheritance tax receipts;³² and statutory liens for services of stallions.³³ Formerly leases of lands³⁴ and statutory liens of laborers and materialmen³⁵ were recorded in specific books.

The recorder keeps a miscellaneous record in which he records the following documents: Surveys establishing a meridian line;³⁶ surveyor's field notes;³⁷ leases of lands;³⁸

²⁴ Acts 1911; Burns 3-1409; Baldwin 968.

The 1911 law requires the recording in a substantially bound book to be known as the "Quiet Title Record", and requires an index for that record. *Ibid.* Decrees quieting titles were recorded in the quiet title record from 1911 until 1950 and in the deed record since 1930. The index for such decrees has appeared only in the general index of deeds.

²⁵ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1207; Baldwin, 1937 suppl., 14078-38.

²⁶ Acts 1891; Burns 7-712; Baldwin 3413.

Wills probated in another county should be recorded in the deed record. Acts 1933; Burns 7-713; Baldwin 3414.

Probated wills were recorded only in the deed record before 1877.

²⁷ Acts 1925; Burns 59-1002 to 59-1004; Baldwin 11002 to 11004.

The law requires the recording in a separate book and requires an index thereto. *Ibid.*

²⁸ Acts 1881 (Spec. Sess.), 1891; Burns 2-2519; Baldwin 391. Acts 1833; Burns 49-1309, 56-108, 56-109; Baldwin 14732, 14729, 14732. 1 Rev. Stat. 1852; Burns 56-106, 56-107, 56-137; Baldwin 14730, 14731.

Powers of attorney were recorded in the miscellaneous record before 1878.

²⁹ Acts 1859, ch. 103. Acts 1907, ch. 80. Acts 1919; Burns 64-518; Baldwin 15555.

Such partitions were recorded only in the deed record before 1876.

³⁰ 1 Rev. Stat. 1852; Burns 26-626 to 26-628; Baldwin 5285 to 5287.

³¹ Acts 1913; Burns 49-3226 to 49-3230; Baldwin 5483 to 5492.

³² Acts 1913, ch. 47, sec. 21.

This act, which was superseded by Acts 1931, ch. 75, provided that such receipts be recorded in a book labeled "Transfer Tax."

³³ Acts 1889, ch. 116, sec. 4. Acts 1913, 1933; Burns 16-910; Baldwin 3793.

³⁴ See footnote 38 herein.

³⁵ See footnote 41 herein.

³⁶ Acts 1895; Burns 49-3327 to 49-3329; Baldwin 10849 to 10851.

³⁷ Acts 1828-29, ch. 94, sec. 1. Rev. Laws 1831, ch. 102, sec. 7. Rev. Stat. 1843, ch. 10, secs. 10, 11, 14. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

³⁸ Rev. Stat. 1843, ch. 28, sec. 25. 1 Rev. Stat. 1852; Burns 56-118; Baldwin 14664. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671.

leases of rolling stock and equipment of railroads;³⁹ conditional sales of fixtures;⁴⁰ statutory liens of laborers, materialmen,⁴¹ and transfermen;⁴² marks and brands of animals;⁴³ fence marks;⁴⁴ official bonds of the clerk of the circuit court;⁴⁵ charters and proceedings of corporations and associations;⁴⁶ limited partnerships;⁴⁷ statutory statements of express companies;⁴⁸ certificates revoking the admission of foreign corporations to do business in this state;⁴⁹ federal tax lien notices and releases thereof;⁵⁰ contracts waiving liens of laborers, materialmen, and building contractors;⁵¹

Miscellaneous record specified. Acts 1897; Burns 56-120.

Leases were recorded in the miscellaneous record from 1856 until 1880, in the lease record from 1881 to 1895, and in the miscellaneous record since 1895.

³⁹ Acts 1891; Burns 55-3716 to 55-3718; Baldwin 15449 to 15451.

⁴⁰ Acts 1935; Burns, 1939 suppl., 58-806, 58-809 to 58-811; Baldwin, 1935 suppl., 14857-5, 14857-8 to 14857-10.

The law requires that a separate record be kept. *Ibid.*

⁴¹ Rev. Stat. 1838, ch. 69, sec. 7. Rev. Stat. 1843, ch. 42, sec. 5. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 650, p. 182. Acts 1867, ch. 36, sec. 2. Acts 1883, ch. 115, sec. 4. Acts 1909; Burns 43-703, 43-704; Baldwin 10507, 10508. State *ex rel.* Lyons v. Phillips (1901), 157 Ind. 481, 62 N. E. 12.

Corporation employees Acts 1877 (Spec. Sess.); Burns 43-302; Baldwin 10547.

Such liens were recorded in the deed record before 1853 and in the mechanic's lien record from 1853 until 1893.

⁴² Acts 1921, 1929; Burns 43-1002, 43-1003; Baldwin 10529, 10530.

⁴³ Acts 1835-36 (general), ch. 24, sec. 1. Rev. Stat. 1838, ch. 85, sec. 6. Rev. Stat. 1843, ch. 8, secs. 11, 12. 1 Rev. Stat. 1852; Burns 49-3231; Baldwin 5474.

⁴⁴ Acts 1877 (Spec. Sess.); Burns 30-510; Baldwin 7630.

⁴⁵ Rev. Laws 1831, ch. 15, sec. 5. Rev. Stat. 1838, ch. 17. Rev. Stat. 1843, ch. 4, sec. 89. 1 Rev. Stat. 1852; Burns 49-106; Baldwin 13066.

⁴⁶ Acts 1820-21, ch. 20, sec. 1. Rev. Laws 1824, ch. 64, secs. 1, 7; ch. 87, secs. 7, 9. Acts 1929; Burns 25-219, 25-228, 25-235, 25-241, 25-242, 25-305, 25-309, 25-311; Baldwin 4919, 4928, 4935, 4941, 4942, 4963, 4967, 4969. Acts 1883; Burns 25-2002; Baldwin 10681. Acts 1909; Burns 25-3602; Baldwin 9280-2.

⁴⁷ Such documents are required to be recorded "in a book to be kept for that purpose." Rev. Stat. 1843, ch. 32, sec. 4. Acts 1859; Burns 50-104, 50-106, 50-112; Baldwin 13195, 13197, 13209.

⁴⁸ Acts 1879 (Spec. Sess.); Burns 55-4102; Baldwin 14401.

⁴⁹ Acts 1929; Burns 25-311; Baldwin 4969.

⁵⁰ Acts 1925; Burns 49-3221 to 49-3225; Baldwin 10570 to 10574.

The law requires recording in a file labeled "Federal Tax Lien Notices" and requires the keeping of an index book labeled "Federal Tax Lien Index." *Ibid.*

⁵¹ Acts 1921, ch. 56, sec. 1.

The law requires the recording by the recorder "in books provided by him for that purpose" and requires an index thereto "in books kept for that purpose." *Ibid.*

releases of vendors' liens;⁵² notices of disputes of easements;⁵³ and other documents presented for recording (not mentioned in the preceding paragraph) which no law requires to be recorded in a separate or specific book or file.⁵⁴ In the miscellaneous record he formerly recorded powers of attorney,⁵⁵ dentists' certificates of registration (law repealed in 1899),⁵⁶ indentures of apprentices (law repealed in 1939),⁵⁷ and special assessments against lands benefited by ditches and drains (law repealed in 1933).⁵⁸ The miscellaneous record was started in Shelby County in 1856 and has been kept by the recorders continuously since then. Documents of the kinds recorded in the miscellaneous record after 1856 were previously recorded in the deed record. Recorders in all counties started keeping a miscellaneous record about the same time, though no statute has ever required the keeping of such record. The general assembly has on several occasions required that certain specified documents be recorded in the miscellaneous record, and thus recognized the custom of the recorders in keeping such record.⁵⁹

To entitle any conveyance, mortgage, or other written instrument to be recorded, the execution thereof must be acknowledged or proved in the manner required by law,⁶⁰ and the intangible tax thereon (if any) must be paid.⁶¹ No

⁵² Acts 1937; Burns, 1939 suppl., 2-625; Baldwin, 1937 suppl., 61-2c. Acts 1889; Burns 56-144, 56-145; Baldwin 14702, 14703.

⁵³ 1 Rev. Stat. 1852; Burns 56-804; Baldwin 14775.

⁵⁴ Rev. Laws 1831, ch. 77, sec. 7. Rev. Stat. 1838, ch. 85, sec. 12. Rev. Stat. 1843, ch. 8, sec. 14. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat. 1852; Burns 49-3209; Baldwin 5471.

⁵⁵ See footnote 28 herein.

⁵⁶ Acts 1837, ch. 32, sec. 9. Acts 1899, ch. 211, sec. 29.

⁵⁷ Rev. Laws 1831, ch. 69, sec. 7. Rev. Stat. 1838, ch. 4, sec. 2. Rev. Stat. 1843, ch. 35, secs. 138, 139. 1 Rev. Stat. 1852; Burns 49-3210; Baldwin 5475.

The law providing for indenturing of apprentices was repealed in 1939. Acts 1939, ch. 19.

⁵⁸ Acts 1881 (Spec. Sess.), ch. 43, sec. 6. Acts 1885 (Spec. Sess.), ch. 40, sec. 6. Acts 1905, ch. 157, secs. 4, 14. Acts 1907, ch. 252, sec. 6. Acts 1933, ch. 264, sec. 61.

⁵⁹ Interview of May 18, 1939 with E. P. Brennan, state examiner.

⁶⁰ Acts 1807, ch. 18, secs. 8, 9, 11-13. Acts 1810, ch. 42, sec. 2. Rev. Laws 1831, ch. 41, secs. 7, 11. Rev. Stat. 1838, ch. 44, secs. 7-11. Rev. Stat. 1843, ch. 28, secs. 23-45, 48-51. Acts 1905; Burns 48-801; Baldwin 12473. 1 Rev. Stat. 1852; Burns 49-3212; Baldwin 14666. Acts 1935; Burns, 1939 suppl., 51-507; Baldwin, 1935 suppl., 13227-7. 1 Rev. Stat. 1852, Acts 1859; Burns 56-123 to 56-130, 56-132 to 56-137; Baldwin 14674 to 14676, 14679 to 14683, 14666, 14669, 14658, 14677, 14659, 14733.

The acknowledgment or proof must be recorded with the instrument. *Ibid.*

⁶¹ Acts 1933; Burns 64-929; Baldwin 15927.

conveyance of land can be recorded by the recorder until after the instrument has been presented to the auditor and he has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.⁶²

The recorder keeps an entry book in which he enters, as filed, all instruments delivered to him for recording, noting the day and hour received, which is deemed the time of recording. Official receipts for such instruments are issued.⁶³ He keeps a combined fee book and cashbook, and enters therein, as received, all money received in his office.⁶⁴ Quarterly he reports to the auditor the amount of fees collected by him, and pays such fees (except those he is entitled to retain) over to the treasurer.⁶⁵ The recorder is required to index the deeds, mortgages, and other instruments recorded by him.⁶⁶ Information concerning the documents recorded in

⁶² Rev. Stat. 1843, ch. 12, secs. 23, 25, 26. Acts 1881 (Spec. Sess.), ch. 96, sec. 154. 1 Rev. Stat. 1852; Burns 49-3214; Baldwin 5478. Acts 1919; Burns 64-1409; Baldwin 15746.

⁶³ Acts 1807, ch. 18, sec. 10. Acts 1817-18 (general), ch. 28, sec. 10. Rev. Laws 1831, ch. 77, sec. 4. Rev. Stat. 1838, ch. 85, sec. 4. Rev. Stat. 1843, ch. 8, secs. 6-8; ch. 28, sec. 46. Acts 1895; Burns 49-3203; Baldwin 5472. 1 Rev. Stat. 1952, Acts 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat. 1852; Burns 49-3211; Baldwin 14665. *Hand v. Board of County Comrs.* (1866), 26 Ind. 179; *Holman v. Doran* (1877), 56 Ind. 358; *Gilchrist v. Gough* (1878), 63 Ind. 576; *Moore v. Glover* (1888), 115 Ind. 367, 16 N. E. 163.

⁶⁴ Acts 1891, ch. 194, secs. 124, 125. Acts 1895; Burns 49-1308; Baldwin 7566. Acts 1895; Burns 49-1401; Baldwin 7576.

⁶⁵ Acts 1895, 1903, 1913; Burns 49-1402, 49-1408, 49-1410; Baldwin 7577, 7583, 7585. See footnote 12 herein.

⁶⁶ Acts 1825, ch. 44, sec. 1. Rev. Laws 1831, ch. 77, sec. 5. Rev. Stat. 1838, ch. 85, sec. 5. Rev. Stat. 1843, ch. 8, sec. 10. *Garrett v. Board of County Comrs.* (1883), 92 Ind. 518.

Deeds. 1 Rev. Stat. 1852; Burns 49-3209; Baldwin 5471. 1 Rev. Stat. 1852, Acts 1855; Burns 49-3216, 49-3218; Baldwin 5480, 5482. *Turpen v. Board of County Comrs.* (1855), 7 Ind. 172; *State ex rel. Board of County Comrs. v. Atkinson* (1861), 17 Ind. 26.

Mortgages. 1 Rev. Stat. 1852; Burns 49-3209, 49-3217, 49-3218; Baldwin 5471, 5481, 5482. *Gilchrist v. Gough* (1878), 63 Ind. 576; *Reeder v. State ex rel. Harlan* (1884), 98 Ind. 114.

Index to chattel mortgage minute book. Acts 1935; Burns, 1939 suppl., 51-510; Baldwin, 1935 suppl., 13227-10.

Federal tax liens. Acts 1925; Burns 49-3222; Baldwin 10571.

Conditional sales of fixtures. Acts 1935; Burns, 1939 suppl., 58-806, 58-809; Baldwin, 1935 suppl., 14857-5, 14857-8.

Quiet title record. Acts 1911; Burns 3-1409; Baldwin 968.

Discharges from military service. Acts 1925; Burns 59-1003; Baldwin 11003.

Contracts waiving liens of laborers, materialmen, and building contractors. Acts 1921, ch. 56, sec. 1.

his office is reported annually to the state division of accounting and statistics.⁶⁷

Printed blank forms (furnished by the county) of deeds, mortgages, and other instruments may be used by the recorder for recording such instruments (executed on similar printed forms) for any person who presented 500 or more instruments to the recorder for recording during the last preceding year.⁶⁸

The photographic process of recording instruments may be used by the recorder if adopted by the board of commissioners. Such method has never been used generally by the recorder of Shelby County.⁶⁹

Formerly the county treasurer, auditor, and recorder selected petit jurors for the circuit court and court of common pleas.⁷⁰

Forms for the following books were prescribed for recorders by the state board of accounts: A combined fee book and cashbook; register of farm names; chattel mortgage minute book; and abstract of old-age assistance awards. Said board has prescribed forms of blanks for report of fees collected, application for registration of farm names, certificate of registration of farm names, and chattel mortgage receipt.⁷¹

FILING OF INSTRUMENTS FOR RECORDING

67. ENTRY BOOK OF DEEDS, MORTGAGES, ETC., 1829-. 42 vols. (B, C, E-H, J-M, N-Q, R-T, V-Z, AA-CC, DD1-DD7, 8-17).

Record of instruments filed for recording, showing number and kind of instrument, date and time of filing, names of principals, location and description of property, amount of consideration, and volume and page reference to recording. Also contains: Recorder's Fee and Cash Book, 1829-94, entry 108. Arr. chron. by dates of filing. No index. Hdw. 500 pp. 18 x 13 x 3. 39 vols., 1829-June 28, 1935, bsmt. vt., B-7; 2 vols., June 29, 1935-Nov. 27, 1939, recr. rec. rm.; 1 vol., Nov. 28, 1939-, recr. off.

⁶⁷ Acts 1909; Burns 60-202; Baldwin 13855. *Statistical Report for the State of Indiana for the Period Ended June 30, 1938* (Indianapolis, 1939), 62-64.

⁶⁸ Acts 1875 (Spec. Sess.), 1919; Burns 49-3206; Baldwin 5487.

⁶⁹ Acts 1927; Burns 49-3207; Baldwin 14667.

⁷⁰ 2 Rev. Stat. 1852, pt. 1, ch. 9, sec. 1, p. 24. Acts 1853, ch. 59, sec. 1.

These duties were discontinued in 1881. Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3304, 4-3306; Baldwin 1266, 1267, 1270.

⁷¹ Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

LAND TRANSFERS

DEEDS AND TITLES

68. GENERAL INDEX OF DEEDS, GRANTOR, 1861-. 16 vols. (4-19). 1822-60 in General Index of Deeds, Grantor, Grantee, entry 70.

Index to Deed Record, entry 74; Cemetery Deed Record, entry 78; Sheriff's Deed Record, entry 79; Quiet Title Record, entry 80; showing same information as in entry 70. Arr. alph. by names of grantors. 560 pp. 18 x 12 x 3. Recr. rec. rm.

69. GENERAL INDEX OF DEEDS, GRANTEE, 1861-. 16 vols. (4-19). 1822-60 in General Index of Deeds, Grantor, Grantee, entry 70.

Index to Deed Record, entry 74; Cemetery Deed Record, entry 78; Sheriff's Deed Record, entry 79; Quiet Title Record, entry 80; showing same information as in entry 70. Arr. alph. by names of grantees. Hdw. 560 pp. 18 x 12 x 3. Recr. rec. rm.

70. GENERAL INDEX OF DEEDS, GRANTOR, GRANTEE, 1822-60. 4 vols. (1, 1-3).

Index to Deed Record, entry 74, showing dates of deed and recording, names of grantor and grantee, kind of deed, amount of consideration, location and description of property, and volume and page reference to recording. This is a combination of two records later kept separately: General Index of Deeds, Grantor, entry 68; General Index of Deeds, Grantee, entry 69. Arr. alph. by names of grantors and grantees. Hdw. 560 pp. 18 x 12 x 3. Recr. rec. rm.

71. GENERAL INDEX OF DEEDS, GRANTOR, 1861-80. 3 vols. 1822-60 in General Index of Deeds, entry 73.

Old volumes of index to Deed Record, entry 74, that have been transcribed into new volumes, showing same information as in entry 70. Arr. alph. by names of grantors. Hdw. Condition poor. 500 pp. 18 x 12 x 3. Bsmt. vt., B-7.

72. GENERAL INDEX OF DEEDS, GRANTEE, 1861-73. 2 vols. (one vol. not numbered, 5). 1822-60 in General Index of Deeds, entry 73.

Old volumes of index to Deed Record, entry 74, that have been transcribed into new volumes, showing same information as in entry 70. Arr. alph. by names of grantees. Hdw. Condition poor. 500 pp. 18 x 12 x 3. Bsmt. vt., B-7.

73. GENERAL INDEX OF DEEDS, 1822-60. 4 vols. (two vols. not numbered, 2, 3).

Old volumes of index to Deed Record, entry 74, that have been transcribed into new volumes, showing same information as

in entry 70. This is a combination of two records later kept separately: General Index of Deeds, Grantor, entry 71; General Index of Deeds, Grantee, entry 72. Arr. alph. by names of grantors and grantees. Hdw. Condition poor. 500 pp. 18 x 12 x 3. Bsmt. vt., B-7.

74. DEED RECORD, 1822-. 178 vols. (A-Z, AA-ZZ, 53-178). Transcripts of deeds for conveyance of titles to real property, showing dates of deed and recording, names of grantor and grantee, location and description of property, and amount of consideration. Also contains: Partition Record, 1822-75, entry 76; Will Record, 1822-76, entry 77; Cemetery Deed Record, 1822-1924, entry 78; Sheriff's Deed Record, 1822-77, 1894-, entry 79; Quiet Title Record, 1822-1910, 1931-, entry 80; Minute of Deeds, 1855-, entry 81; Plat Book, 1822-50, entry 83; Mortgage Record, 1822-47, entry 86; School Fund Mortgage Record, 1822-47, entry 88; Chattel Mortgage Record, 1822-47, entry 94; Mechanics' Liens, 1838-52, entry 96; Miscellaneous Record, 1822-55, entry 100. Arr. chron. by dates of recording. Indexed alph. by names of grantors and grantees; for separate indexes, see entries 68-73; for separate indexes to mortgages, see entries 84, 85. 1822-Apr. 27, 1906, hdw.; Apr. 27, 1906-, typed. 550 pp. 18 x 13 x 3. Recr. rec. rm.

75. [DEEDS AND MORTGAGES], 1832-. 72 f. b. (A-P, QR, S-W, XY, Z, and 48 f. b. not labeled).

Miscellaneous instruments filed for recording and not called for, including:

- i. Deeds, showing same information as in entry 74.
- ii. Wills, showing same information as in entry 77.
- iii. Real estate mortgages, showing same information as in entry 86.
- iv. Chattel mortgages, 1832-June 10, 1935, showing same information as in entry 94.
- v. Stock liens, 1891-, showing same information as in entry 95.
- vi. Mechanics' liens, 1838-, showing same information as in entry 96.
- vii. Articles of association, incorporation and dissolution, showing same information as in entry 100.
- viii. Powers of attorney, 1856-, showing same information as in entry 101.
- ix. Leases, 1856-, showing same information as in entry, 107.

Arr. chron. by dates of filing. No index. Hdw. and typed. 11 x 5 x 14. 48 f. b., 1832-1928, bsmt. vt., B-7; 24 f. b., 1929-, recr. rec. rm.

76. PARTITION RECORD, 1876-. 5 vols. (1-5). 1822-75 in Deed Record, entry 74.

Transcripts of judgments rendered in partition actions, showing dates of judgment and recording, names of plaintiff, defendant and heirs, location, description and valuation of property, and amount of fees. Arr. chron. by dates of recording. Indexed alph. by names of plaintiffs and defendants. 1876-Apr. 28, 1906, hdw.; Apr. 29, 1906-, typed. 500 pp. 18 x 13 x 3. Recr. rec. rm.

For other partition records, see entry 193.

77. WILL RECORD, 1877-. 5 vols. (1, 1-4). 1822-76 in Deed Record, entry 74.

Transcripts of wills, showing dates of will, testator's death and recording, cause number, names of testator, heirs, witnesses and executor, location and description of property, and amounts of bequests. Arr. chron. by dates of recording. Indexed alph. by names of testators. 1877-May 3, 1906, hdw.; May 4, 1906-, typed. 550 pp. 18 x 13 x 3. Recr. rec. rm.

For other will records, see entries 190-192.

78. CEMETERY DEED RECORD, 1925-. 1 vol. (1). 1822-1924 in Deed Record, entry 74.

Transcripts of deeds for conveyance of titles to cemetery lots, showing instrument number, date and time of recording, names of grantor, grantee and cemetery, amount of consideration, and location and description of lot. Arr. chron. by dates of recording. Indexed alph. by names of grantors and grantees; for separate indexes, see entries 68, 69. Typed. 550 pp. 18 x 13 x 3. Recr. rec. rm.

79. SHERIFF'S DEED RECORD, 1878-93. 1 vol. (1). 1822-77, 1894- in Deed Record, entry 74.

Transcripts of deeds for conveyance of titles to property sold to satisfy judgments, showing dates of sale, deed and recording, names of grantor and grantee, location and description of property, and amounts of sale and judgment. Arr. chron. by dates of recording. Indexed alph. by names of grantors; for separate indexes, see entries 68, 69. Hdw. 550 pp. 18 x 13 x 3. Recr. rec. rm.

For sheriff's sale record, see entry 152.

80. QUIET TITLE RECORD, 1911-30. 1 vol. 1822-1910, 1931- in Deed Record, entry 74.

Transcripts of court decrees in quiet title actions, showing cause number, dates of decree and recording, names of plaintiff, defendant and attorneys, and location and description of property. Arr. chron. by dates of recording. For indexes, see entries 68, 69. Hdw. 500 pp. 18 x 13 x 3. Recr. rec. rm.

81. MINUTE OF DEEDS, 1844-54. 1 vol. 1855- in Deed Record, entry 74.

Register of deeds for conveyance of titles to property sold for delinquent taxes, showing dates of sale and deed, names of grantor and grantee, tax sale certificate number, amount of sale, and location and description of property. Arr. chron. by dates of deeds. No index. Hdw. 150 pp. 14 x 8 x 1. Bsmt. vt., B-7.

82. TRACT BOOK, 1820-48. 1 vol.

Abstracts of original land grants and sales by U. S. Government, showing date of sale or grant, name of purchaser or grantee, township, section and range numbers, location and description of land, and number of acres. Arr. by twp. and range nos. No index. Hdw. 200 pp. 14 x 12 x 2. Recr. rec. rm.

PLATS

83. PLAT BOOK, 1851-. 4 vols. (1-4). 1822-50 in Deed Record, entry 74.

Plats of cities, towns, additions, subdivisions and cemeteries, showing dates of transfer, filing and recording, names of cities, towns, additions, subdivisions, cemeteries and property owners, location and description of property, numbers and sizes of lots, and length and width of public grounds, streets and alleys. Arr. by cities, towns and cemeteries. Indexed alph. by names of cities, towns, additions, subdivisions and cemeteries. Hdw. 250 pp. 24 x 16 x 1½. Recr. rec. rm.

MORTGAGE TRANSACTIONS

REAL ESTATE

84. MORTGAGE INDEX, MORTGAGOR, 1822-. 18 vols. (1-18). Index to mortgages recorded in Deed Record, 1822-47, entry 74; Mortgage Record, entry 86; Chattel Mortgage Minute Book, June 11, 1935-, entry 90; Chattel Mortgage Record, 1876-June 10, 1935, entry 94; showing names of mortgagor and mortgagee, location and description of property, amount of consideration, and volume and page reference to recording. Arr. alph. by names of mortgagors. Hdw. 500 pp. 18 x 12 x 3. 6 vols., 1823-Oct. 1899, bsmt. vt., B-7; 12 vols., Nov. 1899-, recr. rec. rm.

85. MORTGAGE INDEX, MORTGAGEE, 1822-. 18 vols. (1-18). Index to mortgages recorded in Deed Record, 1822-47, entry

74; Mortgage Record, entry 86; Chattel Mortgage Minute Book, June 11, 1935, entry 90; Chattel Mortgage Record, 1876-June 10, 1935, entry 94; showing same information as in entry 84. Arr. alph. by names of mortgagees. Hdw. 500 pp. 18 x 12 x 3. 6 vols., 1823-Oct. 1899, bsmt. vt., B-7; 12 vols., Nov. 1899-, recr. rec. rm.

86. MORTGAGE RECORD, 1848-. 124 vols. (A-Z, 27-124). 1822-47 in Deed Record, entry 74.

Transcripts of mortgages executed to secure loans on real property, showing dates of mortgage and recording, names of mortgagor and mortgagee, amount and conditions of mortgage, and location and description of property. Also contains: Mortgage Release Record, 1848-76, entry 87; School Fund Mortgage Record, 1848-54, 1904-, entry 88; Record of Releases, School Fund Mortgages, 1848-76, entry 89; Chattel Mortgage Record, 1848-75, entry 94. Arr. chron. by dates of recording. Indexed alph. by names of mortgagors and mortgagees; for separate indexes, see entries 84 and 85. 1848-Nov. 17, 1899, hdw.; Nov. 18, 1899-, typed. 500 pp. 18 x 13 x 3. 54 vols., 1848-Jan. 9, 1903, bsmt. vt., B-7; 70 vols., Jan. 10, 1903-, recr. rec. rm.

87. MORTGAGE RELEASE RECORD, 1877-. 13 vols. (two vols. not numbered, 3-13). 1848-76 in Mortgage Record, entry 86.

Record of real property mortgage releases, showing dates of release and recording, names of mortgagor and mortgagee, amount of mortgage, and volume and page reference to Mortgage Record, entry 86. Also contains: Record of Releases, School Fund Mortgages, 1877-1906, 1919-, entry 89. Arr. chron. by dates of releases. Indexed alph. by names of mortgagors and mortgagees. 1877-Oct. 12, 1903, hdw.; Oct. 13, 1903-, typed. 530 pp. 18 x 13 x 3. 5 vols., 1877-Mar. 27, 1898, bsmt. vt., B-7; 8 vols., Mar. 28, 1898-, recr. rec. rm.

88. SCHOOL FUND MORTGAGE RECORD, 1855-1903. 4 vols. (1-4). 1822-47 in Deed Record, entry 74; 1848-54, 1904- in Mortgage Record, entry 86.

Transcripts of mortgages executed to secure school fund loans, showing dates of mortgage and recording, name of mortgagor, amount and conditions of mortgage, rate of interest, and location and description of property. Arr. chron. by dates of recording. Indexed alph. by names of mortgagors. Hdw. 500 pp. 18 x 13 x 3. 3 vols., 1855-July 1892, bsmt. vt., B-7; 1 vol., Aug. 1892-1903, recr. rec. rm.

For other school fund records, see entries 89, 243-245, 275-277, 335-337, 339-348.

89. RECORD OF RELEASES, SCHOOL FUND MORTGAGES, 1907-18.
1 vol. 1848-76 in Mortgage Record, entry 86; 1877-1906, 1919- in Mortgage Release Record, entry 87.

Record of school fund mortgage releases, showing dates of mortgage and release, name of mortgagor, amount of mortgage, and volume and page reference to Mortgage Record, entry 86. Arr. chron. by dates of releases. Indexed alph. by names of mortgagors. Hdw. 300 pp. 18 x 12 x 3. Bsmt. vt., B-7.

For other school fund records, see entries 88, 243-245, 275-277, 335-337, 339-348.

CHATTEL

90. CHATTEL MORTGAGE MINUTE BOOK, June 11, 1935-. 2 vols. (1, 2).

Abstracts of mortgages executed to secure loans on personal property and sales contracts for property purchased on deferred payments, showing dates of mortgage or contract and filing, names of mortgagor or purchaser and mortgagee and vendor, amount of mortgage or contract, and description of property. Arr. num. by mortgage and contract nos. Indexed alph. by names of mortgagors, mortgagees, vendors and purchasers; for separate indexes, June 11-Oct. 8, 1935, see entry 91; Oct. 9, 1935-, see entries 84 and 85. Hdw. 265 pp. 18 x 13 x 2. Recr. rec. rm.

For prior records, see entry 94.

91. GENERAL INDEX CHATTEL MORTGAGE [MINUTE BOOK], June 11-Oct. 8, 1935. 1 vol. (1). Oct. 9, 1935- in Mortgage Index, Mortgagor, entry 84, and Mortgage Index, Mortgagee, entry 85.

Index to Chattel Mortgage Minute Book, entry 90, showing dates of mortgage and recording, names of mortgagor and mortgagee, amount of mortgage, description of property, and volume and page reference to recording. Arr. alph. by names of mortgagors and mortgagees. Hdw. 600 pp. 16 x 12 x 3. Recr. rec. rm.

92. [CHATTEL MORTGAGES], June 11, 1935-. 27 f. b. (labeled by first letter of mortgagor's surname).

Original mortgages executed to secure loans on personal property and sales contracts for property purchased on deferred payments, showing dates of mortgage or contract and filing, names of mortgagor or purchaser and mortgagee or vendor, amount and conditions of mortgage or contract, description of property, and volume and page reference to Chattel Mortgage Minute Book, entry 90. Arr. alph. by names of mortgagors and vendors. No index. Typed. 11 x 5 x 14. Recr. off.

93. [RECEIPTS FOR MORTGAGES], 1935-. 101 vols.

Copies of receipts issued for chattel mortgages and conditional sales contracts, showing dates and numbers of receipt and instrument, names of mortgagor and mortgagee or vendor and purchaser, amount of mortgage or contract, and volume and page reference to Chattel Mortgage Minute Book, entry 90. Arr. num. by receipt nos. No index. Hdw. 3 x 9 x ½. Recr. off.

94. CHATTEL MORTGAGE RECORD, 1876-June 10, 1935. 73 vols. (six vols. not labeled, 7-73). 1822-47 in Deed Record, entry 74; 1848-75 in Mortgage Record, entry 86.

Transcripts of mortgages executed to secure loans on personal property, showing dates of mortgage, maturity, satisfaction and recording, number, amount and conditions of mortgage, names of mortgagor and mortgagee, and description of property. Arr. chron. by dates of recording. Indexed alph. by names of mortgagors and mortgagees; for separate indexes, see entries 84 and 85. 550 pp. 18 x 13 x 3. 62 vols., 1876-May 1930, bsmt. vt., B-7; 11 vols., June 1930-, recr. rec. rm.

For subsequent records, see entry 90.

LIENS

95. [STOCK LIENS], 1891-. 1 vol. Last entry 1911.

Record of liens executed for nonpayment of stallion service fees, showing dates of service, lien and recording, names of lienor and lienee, name, register number and description of sire, description of dam, and amount of lien. Arr. chron. by dates of recording. Indexed alph. by names of lienors. Hdw. 500 pp. 18 x 12 x 3. Bsmt. vt., B-7.

96. MECHANIC'S LIENS, 1853-93. 2 vols. (1, 2). 1838-52 in Deed Record, entry 74; 1894- in Miscellaneous Record, entry 100.

Transcripts of liens executed on property for nonpayment of services and materials, showing dates of lien, satisfaction and recording, names of lienor and lienee, amount of lien, and location and description of property. Arr. chron. by dates of recording. Indexed alph. by names of lienors. Hdw. 450 pp. 18 x 12 x 3. Bsmt. vt., B-7.

97. RECORD OF INHERITANCE RECEIPTS, 1916-. 1 vol. (1).

Record of receipts for payment of inheritance taxes establishing satisfaction of federal lien, showing dates of decedent's death, receipt and recording, cause number, names of decedent, heirs and administrator, executor or trustee, re-

lationship of heir, and amounts of estate, discount and tax. Arr. chron. by dates of recording. Indexed alph. by names of decedents. 1916-June 14, 1920, hdw.; June 15, 1920-, typed. 368 pp. 18 x 12 x 3. Recr. rec. rm.

For other inheritance tax records, see entries 119, 252.

98. ABSTRACT OF OLD AGE PENSIONS, 1936-. 1 vol.

Abstracts of certificates of award of old-age assistance establishing liens against property of recipients, showing dates of certificate and recording, time of filing, name of recipient, and application and certificate numbers. Arr. chron. by dates of recording. Indexed alph. by names of recipients. Hdw. 500 pp. 18 x 12 x 3. Recr. off.

For other old-age assistance records, see entries 99, 305, 399-408.

99. [OLD AGE ASSISTANCE CERTIFICATES], 1936-. 1 f. d.

Certificates of award for old-age assistance establishing liens against property of recipients, showing same information as in entry 98. Arr. alph. by names of recipients. No index. Typed. 11 x 14 x 26. Recr. off.

For other old-age assistance records, see entries 98, 305, 399-408.

MISCELLANEOUS RECORDS

100. MISCELLANEOUS RECORD, 1856-. 23 vols. (one vol. not labeled, 2-23). 1822-55 in Deed Record, entry 74.

Transcripts of miscellaneous documents, including:

- i. Articles of incorporation, amendments to articles of incorporation and dissolutions of corporations, showing dates of incorporation, amendment, dissolution and recording, name of corporation, place of business, amount of capital stock, description of seal, and names of officers.
- ii. Certificates of election of officers of churches, lodges and societies, showing dates of election and recording, names of church, lodge or society and officer elected, and title of officer.
- iii. Bills of sale, showing dates of sale and recording, description and itemized list of property, names of vendor and purchaser, and amount realized.
- iv. Contracts, showing dates of contract and recording, names of principals, location and description of property, and conditions of contract.
- v. Affidavits, showing dates of affidavit and recording, and name and statement of affiant.

- vi. Occasional recordings of options, easements, right-of-way grants, certificates of patents, landlord, threshermen and breeder liens, mortgage, mechanic lien, judgment and bankruptcy releases, acknowledgments, internal tax receipts, sale agreements, certificates of foreign corporations, and notices of change of names, showing dates of instrument and recording, nature and conditions of instrument, and names of parties.

Also contains: Mechanic's Liens, 1894-, entry 96; Power of Attorney Record, 1856-77, entry 101; Lease Record, 1856-80, 1896-, entry 107. Arr. chron. by dates of recording. Indexed alph. by names of principals. 1856-Oct. 24, 1906, hdw.; Oct. 25, 1906-, typed. 500 pp. 18 x 13 x 3. 6 vols., 1856-May 1899, bsmt. vt., B-7; 17 vols., June 1899-, recr. rec. rm.

101. POWER OF ATTORNEY RECORD, 1878-. 3 vols. (1-3). 1856-77 in Miscellaneous Record, entry 100.

Transcripts of power of attorney authorizations, showing dates of grant and recording, names of principal and agent, conditions of authorization, and period of authority. Arr. chron. by dates of recording. Indexed alph. by names of principals. 1873-July 1906, hdw.; Aug. 1906-, typed. 250 pp. 18 x 13 x 3. Recr. rec. rm.

102. REGISTER OF FARM NAMES, 1913-. 1 vol.

Record of names assigned to farms for purpose of identifying farms and farm products, showing date and time of recording, names of farm and owner, register number, and location and description of farm. Arr. chron. by dates of recording. Indexed alph. by names of farms. Hdw. and typed. 500 pp. 18 x 12 x 3. Recr. rec. rm.

103. DISCHARGE RECORD, SOLDIERS, SAILORS AND MARINES, 1925-. 1 vol. (1).

Record of discharges from U. S. military service, showing dates of discharge and recording, certificate number, name, age, address, rank of veteran, company and regiment, service record, name of commanding officer, and dates and places of enlistment and discharge. Arr. chron. by dates of recording. Indexed alph. by names of veterans. Typed. 500 pp. 18 x 13 x 3. Recr. rec. rm.

For other military records, see entries 17, 360.

104. STATISTICAL REPORT, 1937-. 1 f. d.

Copies of recorder's statistical reports to division of accounting and statistics, showing date of report, number of warranty, quit claim, sheriff's and auditor's deeds recorded,

amount of consideration, number of one-dollar considerations, number of miscellaneous instruments recorded, number of mortgages on farms, city and town lots and school fund recorded, amount of consideration, and number and amount of satisfaction. Arr. chron. by dates of reports. No index. Hdw. 10 x 12 x 25. Recr. off.

For prior records, see entry 105.

105. RECORD OF BUREAU OF STATISTICS, 1901-36. 3 vols. (1-3).

Record of statistics compiled for division of accounting and statistics, showing same information as in entry 104. Arr. chron. by dates of reports. No index. Hdw. 500 pp. 18 x 12 x 3. Bsmt. vt., B-7.

For subsequent records, see entry 104.

106. [INDENTURE AND APPRENTICESHIP RECORD], Mar. 7, 1854-Nov. 12, 1896. 2 vols. (2, one vol. not labeled). Transcript of agreements to assume obligations of children's care and education in return for services performed, showing date and conditions of agreement, name, age and race of child, and names and addresses of parents and master. Arr. chron. by dates of agreements. Indexed alph. by names of children. Hdw. 150 pp. 16 x 11 x 1½. Bsmt. vt., B-7.

107. LEASE RECORD, 1881-95. 2 vols. 1856-80, 1896- in Miscellaneous Record, entry 100.

Transcripts of leases, showing dates of lease and recording, names of lessor and lessee, conditions of lease, amount of consideration, and location and description of property. Arr. chron. by dates of recording. Indexed alph. by names of lessors and lessees. Hdw. 300 pp. 14 x 12 x 2. Bsmt. vt., B-7.

FEE AND CASH RECORDS

108. RECORDER'S FEE AND CASH BOOK, 1895-. 14 vols. (four vols. not labeled, 1-10). 1829-94 in Entry Book of Deeds, Mortgages, Etc., entry 67.

Record of fees collected for recording instruments, showing date of collection, name of payer, kind of document, amount of fee and date of payment to treasurer. Arr. chron. by dates of collections. No index. Hdw. 300 pp. 18 x 12 x 2. 12 vols., 1895-Apr. 1935, bsmt. vt., B-7; 1 vol., May 1935-Apr. 26, 1938, recr. rec. rm.; 1 vol., Apr. 27, 1938-, recr. off.

109. [REPORT OF FEES], 1936-. 1 f. d.

Recorder's reports of fees collected for recording instruments, showing date of report, number and kind of instrument

recorded, amount of fee for each kind of instrument, and total amount of fees. Arr. chron. by dates of reports. No index. Typed. 10 x 12 x 25. Recr. off.

NEWSPAPERS

110. WEEKLY NEWSPAPERS, 1854-. 111 vols.

Copies of daily and weekly newspapers containing county publications. Contains:

Shelby Democrat, 1878-.

Shelby Republican, 1869-1934.

Shelby Volunteer, 1857-66.

Shelby Weekly Volunteer, 1873-80.

National Volunteer, 1854-71.

Republican Banner, 1855-60.

Independent Banner, 1854.

Arr. chron. by dates of publications. No index. Ptd. 27 x 18 x 2. 107 vols., 1854-1935, bsmt. vt., B-7; 4 vols., 1936-, recr. rec. rm.

V. CIRCUIT COURT

LEGAL STATUS

The circuit court, which exists under the mandatory provisions of the Constitution of 1851, consists of one judge elected for a 6-year term by the voters of the judicial circuit.¹ Since January 29, 1913 Shelby County alone has constituted the 16th judicial circuit.² The official name of the court is "Shelby Circuit Court."³ This is the only court of record in Shelby County.

The judge of the circuit court is commissioned by the Governor of Indiana⁴ and holds office until his successor is elected and qualified.⁵ For 3 years next before his candidacy for election the judge must have been duly admitted

¹ Const. 1851, art. 7, secs. 1, 8, 9. Acts 1881 (Spec. Sess.); Burns 4-301; Baldwin 1395. Acts 1925, 1929; Burns 4-3220; Baldwin 1258.

² Before January 29, 1913 Shelby County belonged to judicial circuits composed of more than one county. See footnote 32 herein.

³ Acts 1881 (Spec. Sess.); Burns 4-302; Baldwin 1396.

⁴ Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

⁵ Const. 1851, art. 15, sec. 3.

to practice law in Indiana and also must have practiced or taught law or acted as an officer of the state or a municipality therein during said time (the periods of practice, teaching, and holding office to be combined).⁶ During the term for which he was elected the judge cannot hold any office of trust or profit under the state, other than a judicial office;⁷ and while holding the office of judge of the circuit court the judge must reside within the circuit,⁸ must not hold any other lucrative office,⁹ and must not practice law.¹⁰ He must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.¹¹

A statute provides that the judge of the circuit court shall receive a regular salary of \$4,200 per year payable monthly out of the state treasury.¹² The constitution provides that an increase or decrease in the compensation of the judge cannot take effect until the expiration of the incumbent's term of office.¹³

If the judge is convicted of corruption or other high crime, he may, on an information in the name of the state, be removed from office by the supreme court.¹⁴ This is the only method by which the judge may be removed from office.¹⁵

Any vacancy of the office of judge of the circuit court is filled through appointment by the governor. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), a judge is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath as was required of his prede-

⁶ Acts 1889; Burns, 1939 suppl., 4-2224; Baldwin, 1939 suppl., 1223-1.

⁷ Const. 1851, art. 7, sec. 16.

⁸ *Ibid.*, sec. 9.

⁹ Const. 1816, art. 11, sec. 13. Const. 1851, art. 2, sec. 9.

¹⁰ Acts 1905; Burns 10-3101; Baldwin 2635.

¹¹ Const. 1816, art. 11, sec. 1. Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

¹² Acts 1921; Burns 4-3209; Baldwin 1225.

¹³ Const. 1851, art. 7, sec. 13; art. 15, sec. 2 (as amended in 1826).

¹⁴ *Ibid.*, art. 7, sec. 12. Acts 1897; Burns 49-319; Baldwin 13152.

¹⁵ *State v. Dearth* (1929), 201 Ind. 1, 164 N. E. 489; *State ex rel. Youngblood v. Warrick Circuit Court* (1935), 208 Ind. 594, 196 N. E. 254. Interview of August 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

cessor, and holds office until his successor is elected and qualified.¹⁶

If on account of death, sickness, or other casualty the judge of the circuit court fails for 3 consecutive days to attend court during termtime, the auditor, sheriff, and clerk of the circuit court, acting together, may appoint a temporary judge to serve until the return of the regular judge or until his successor is named.¹⁷ If for 9 months the regular judge is incapable (on account of sickness, mental incapacity, or otherwise) of discharging his duties, and the clerk certifies the facts to the secretary of state, the governor may appoint some practicing attorney within the circuit to serve as judge *pro tempore* during the continuance of the disability of the regular judge.¹⁸

If the regular judge is disqualified in any particular cause by prejudice, relationship, or interest, and the parties do not object to the regular judge making nominations for a special judge, the regular judge may designate the names of three other judges or attorneys, and the plaintiff and defendant may each strike one of such names. The person whose name remains after such striking may serve as special judge in that particular cause. If the parties object to the regular judge making such nominations, the clerk certifies the facts to the clerk of the Supreme Court of Indiana, who, acting under the direction of the supreme court, selects the names of three persons; and each party may strike one name as aforesaid. If the parties agree on the selection of a special judge, the regular judge will appoint the person thus selected.¹⁹

With the organization of Shelby County in 1822,²⁰ there was established in the county, as required by the mandatory provisions of the Constitution of 1816, a circuit court composed of a president judge and two associate judges. The

¹⁶ Const. 1851, art. 5, sec. 18. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-402, 49-404, 49-408, 49-409; Baldwin 13101, 13103, 13106, 13107. State *ex rel.* Custer v. Schortemeier (1926), 197 Ind. 507, 151 N. E. 407; State *ex rel.* Middleton v. Scott Circuit Court (1938), 214 Ind. 643, 17 N. E. (2d) 464.

¹⁷ Acts 1855; Burns 4-317; Baldwin 1423. Acts 1881 (Spec. Sess.); Burns 4-3103; Baldwin 1261.

¹⁸ Acts 1871; Burns 4-317 to 4-319; Baldwin 1423 to 1425.

¹⁹ Acts 1905, 1907; Burns 2-1409; Baldwin 207. Acts 1937; Burns, 1939 suppl., 2-1424 to 2-1430, 9-1316 to 9-1325; Baldwin, 1937 suppl., 207-1 to 207-5, 194-1, 2223-1, 2222-1 to 2222-5, 2223-2 to 2223-5.

²⁰ Acts 1821-22, ch. 31, secs. 1, 2.

president judge was elected for the circuit by joint ballot of both houses of the general assembly. The associate judges were elected in the county by the voters thereof.²¹ All judges were commissioned by the governor and held office for the term of 7 years.²² Recess appointments of president judges were made by the governor when the general assembly was not in session.²³ The president judge alone or any two judges could hold a court; but the presence of the president was required in capital-punishment cases and cases in chancery. The president judge presided when he and one or both associate judges were present. The president judge could control the action of the court when he and one associate judge were present; and any two judges could control the action of the court when all three judges were present.²⁴ Since the adoption of the Constitution of 1851, the circuit court has consisted of one judge elected by the voters of the judicial circuit for a 6-year term.²⁵

The circuit court created by the Constitution of 1816 had original jurisdiction of naturalization proceedings under the federal laws, all criminal cases under the state laws (except those punishable only by fine not exceeding \$3, of which the justices of the peace had exclusive original jurisdiction), all civil actions at law, all equity cases (including suits for divorce), insanity inquests and commitments, guardianships, probate of wills, and administration of estates of decedents. The associate judges were sometimes called "The Probate Court" when exercising their jurisdiction concerning decedents' estates.²⁶ Some of the original jurisdiction of

²¹ Const. 1816, art. 5, secs. 3, 7. Acts 1816-17, ch. 2, sec. 2; ch. 3, sec. 4; ch. 14, secs. 1, 8. Acts 1817-18 (general), ch. 2, sec. 2. Rev. Laws 1824, ch. 24, sec. 2. Rev. Laws 1831, ch. 22, sec. 2. Rev. Stat. 1838, ch. 23, sec. 2. Rev. Stat. 1843, ch. 38, secs. 1-4.

²² Const. 1816, art. 5, sec. 4; art. 11, sec. 9.

²³ *Ibid.*, art. 4, sec. 9.

²⁴ *Ibid.*, art. 5, sec. 3. Fuller v. State (1820), 1 Blackford 63; Cook v. State (1844), 7 Blackford 165; Miller v. Burger (1850), 2 Ind. 337.

Adjournment for lack of quorum. Acts 1816-17, ch. 2, sec. 10.

²⁵ Const. 1851, art. 7, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-301; Baldwin 1295.

²⁶ U. S. Statutes at Large, 2:153, 155 (law of 1802); 4:69 (law of 1824). Const. 1816, art. 5, sec. 3. Acts 1816-17, ch. 2, secs. 5-8; ch. 3, secs. 2, 3; ch. 4, sec. 19. Acts 1817-18 (general), ch. 2, secs. 5-7; chs. 3, 13. Acts 1821-22, ch. 73, sec. 4. Rev. Laws 1824, ch. 24, secs. 4-6. Acts 1825, ch. 35, secs. 1-3. Rev. Laws 1831, ch. 22, sec. 3. Rev. Stat. 1838, ch. 23, secs. 3-7, 12; ch. 31, sec. 1. Rev. Stat. 1843, ch. 35, secs. 22-72; ch. 38, secs. 6-32. Prentiss v. Porter (1822), 1 Blackford 525; Mills v. Bradley (1827), 1 Blackford 541; State v. Albertson (1829), 2 Blackford 251, Bequette v. Lasselle (1840), 5 Blackford 443; Sherry v. Winton (1848), 1 Ind. 96.

the circuit court was transferred in 1829 to the probate court, which is discussed hereinafter. The circuit court had appellate jurisdiction to review decisions of the board doing county business,²⁷ justices of the peace,²⁸ the probate court,²⁹ and the court of common pleas.³⁰ Decisions of the circuit court were reviewable by the Supreme Court of Indiana.³¹

From the organization of the Shelby Circuit Court until the present time, Shelby County has belonged to the following judicial circuits: 1822 to June 17, 1852, fifth circuit (always composed of several counties but the membership was changed 14 times); June 17, 1852 to April 22, 1869, fourth circuit (Dearborn, Decatur, Fayette, Franklin, Rush, Shelby, and Union); April 22, 1869 to May 5, 1869, fourth circuit (Decatur, Fayette, Rush and Shelby); May 5, 1869 to March 6, 1873, 28th circuit (Bartholomew, Brown, Johnson, and Shelby); March 6, 1873 to February 28, 1899, 16th circuit (Johnson and Shelby); February 28, 1899 to January 29, 1913, 16th circuit (Rush and Shelby); January 29, 1913 to date, 16th circuit (Shelby).³² An act of 1915, which has not been amended or repealed, provides for 4 terms of court each

²⁷ Rev. Stat. 1838, ch. 21, secs. 28, 29; ch. 41, sec. 12. Rev. Stat. 1843, ch. 7, secs. 37-43, ch. 11, sec. 11; ch. 16, sec. 56; ch. 17, sec. 18. *Reddington v. Hamilton* (1846), 8 Blackford 62; *Taylor v. Lucas* (1846), 8 Blackford 289; *Malone v. Hardesty* (1843), 1 Ind. 79.

²⁸ Acts 1816-17, ch. 5, sec. 18. Rev. Stat. 1838, ch. 4, sec. 5; ch. 6, secs. 5, 11; ch. 19, sec. 16; ch. 43, sec. 6; ch. 58, secs. 11, 80, 90; ch. 79, sec. 21. Rev. Stat. 1843, ch. 19, secs. 23, 46; ch. 23, sec. 10; ch. 35, sec. 162; ch. 41, secs. 11, 42, 43; ch. 42, sec. 63; ch. 43, secs. 9-13; ch. 45, secs. 173-176, 193, 216; ch. 47, secs. 159-182; ch. 55, sec. 21.

²⁹ Acts 1828-29, ch. 36, sec. 4. Rev. Laws 1831, ch. 24, sec. 7; ch. 25, sec. 52. Rev. Stat. 1838, ch. 24, sec. 12; ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70; ch. 39, secs. 33-36.

³⁰ 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 13, 20; pt. 2, ch. 1, sec. 550.

³¹ Acts 1816-17, ch. 1, secs. 7, 13. Acts 1817-18 (general), ch. 1, secs. 7, 13. Rev. Laws 1824, ch. 25, sec. 7. Rev. Laws 1831, ch. 24, sec. 7. Rev. Stat. 1838, ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70, 91.

³² Acts 1821-22, ch. 40, sec. 5. Acts 1822-23, ch. 47, sec. 4. Rev. Laws 1824, ch. 26, sec. 1. Acts 1825, ch. 16, secs. 4, 5. Acts 1825-26, ch. 11, secs. 1, 2. Acts 1826-27, ch. 91, sec. 7. Acts 1827-28, ch. 18, sec. 6. Acts 1828-29, ch. 25, sec. 1. Acts 1829-30, ch. 28 (first act), sec. 1. Acts 1830-31 (special), ch. 12, sec. 6. Rev. Laws 1831, ch. 23, sec. 1. Acts 1831-32, ch. 157, sec. 3. Acts 1832-33, ch. 3, sec. 3. Acts 1838-39 (general), ch. 2, sec. 1. Acts 1840-41 (general), ch. 25, sec. 1. Acts 1841-42 (general), ch. 24, sec. 1. Acts 1846-47 (general), ch. 2, sec. 6. Acts 1849-50 (general), ch. 43, sec. 1. Acts 1851-52, ch. 21, sec. 4; ch. 27, sec. 1. Acts 1869 (Spec. Sess.), ch. 20, sec. 1; ch. 22, sec. 1. Acts 1873, ch. 29, sec. 17. Acts 1899, ch. 126, sec. 2 (effective on expiration of term of office of prosecuting attorney of ninth circuit). Acts 1913, ch. 2, secs. 1, 7.

year in Shelby County, beginning on the first Monday in January, the second Monday in March, the third Monday in May, and the first Monday in October, each term lasting "as long as the business pending in said court shall require and no longer."³³ Many laws were enacted by the legislature before 1915 for the purpose of regulating the commencement and duration of terms of court in the Shelby Circuit Court.³⁴

A probate court, consisting of one judge, was established in Shelby County in 1829. The judge was elected for a 7-year term by the voters of the county. The court had exclusive original jurisdiction over guardianships, probate of wills, and settlement of decedents' estates; and had original jurisdiction (concurrent with the circuit court) over dower proceedings, partition proceedings, and actions concerning guardians, heirs, devisees, executors, and administrators.³⁵ Except as hereinafter stated, the court held 4 terms each year, commencing on the second Monday in February, May, August, and November, each term lasting 6 days. After January 14, 1846 each term could last 12 days. After January 21, 1848 the terms began on the first Monday in February, the second Monday in May, the first Tuesday after the first Monday in August, and the second Monday in November.³⁶ After June 15, 1852 the judge of the circuit court could act for the judge of the probate court when he failed to hold a regular term of court.³⁷ Decisions of the probate court were reviewable by the Shelby Circuit Court or the Supreme Court of Indiana.³⁸ The probate

³³ Acts 1915 ch. 161, sec. 1.

³⁴ Acts 1821-22, ch. 40, sec. 10. Acts 1822-23, ch. 47, sec. 4. Rev. Laws 1824, ch. 26, sec. 6. Acts 1825, ch. 16, sec. 3. 1825-26, ch. 11, sec. 2. Acts 1826-27, ch. 18, sec. 3. Acts 1827-28, ch. 18, sec. 1. Acts 1828-29, ch. 25, sec. 1. Acts 1829-30, ch. 28 (second act), sec. 5. Rev. Laws 1831, ch. 23, sec. 6. Acts 1832-33, ch. 67, sec. 4. Acts 1835-36 (general), ch. 9, secs. 1, 2. Acts 1836-37 (general), ch. 9, secs. 1, 2. Acts 1838-39 (general), ch. 2, sec. 6; ch. 3, sec. 2. Acts 1839-40 (general), ch. 54, sec. 1. Acts 1842-43 (general), ch. 3, sec. 2. Acts 1843-44 (general), ch. 5, sec. 1. Acts 1844-45 (general), ch. 38, sec. 1. Acts 1845-46 (general), ch. 20, sec. 1. Acts 1849-50 (general), ch. 46, sec. 1. Acts 1851-52, ch. 22, sec. 1. Acts 1867, ch. 17, sec. 1. Acts 1869, ch. 9, sec. 1; ch. 10, sec. 1. Acts 1869 (Spec. Sess.), ch. 20, sec. 6; ch. 22, secs. 1, 2.

³⁵ Const. 1816, art. 5, sec. 4. Acts 1828-29, ch. 26, secs. 1, 2. Rev. Laws 1831, ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 24, sec. 1. Rev. Stat. 1843, ch. 4, secs. 2, 9; ch. 39, secs. 1-13.

³⁶ Acts 1831-32, ch. 159, sec. 1. Rev. Stat. 1838, ch. 24, sec. 68. Rev. Stat. 1843, ch. 39, sec. 40. Acts 1845-46 (general), ch. 100, sec. 1. Acts 1847-48 (general), ch. 6, sec. 1.

³⁷ Acts 1851-52, ch. 34, secs. 1, 3.

³⁸ Acts 1828-29, ch. 26, sec. 4. Rev. Laws 1831, ch. 24, sec. 7; ch. 25, sec. 52. Rev. Stat. 1838, ch. 24, sec. 12; ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70; ch. 39, secs. 33-36.

court was abolished on May 6, 1853, and its jurisdiction was transferred to the court of common pleas.³⁹

A court of common pleas, consisting of one judge, was established in Shelby County in May 1853. The judge was elected for a 4-year term by the voters of the common pleas district, composed of Shelby County alone.⁴⁰ Originally the court of common pleas held four terms of court in the county each year, beginning on the first Monday in March, June, September, and December, each term lasting "as long as the business may require." An act of March 3, 1855 authorized special terms in the county for the completion of any business scheduled for regular terms and remaining unfinished at adjournment of the term. After March 1, 1859 only three regular terms could be held each year. From March 1, 1859 until October 1, 1860 the terms began on the first Monday in January, May, and September. After October 1, 1860 the terms began on the first Monday in March, July, and November. From October 1, 1860 until March 11, 1861 each term could last 2 weeks, and after that time each term could last 3 weeks.⁴¹ An act of March 1, 1859 provided that the judicial district should be composed of the counties of Brown, Johnson, Monroe, Morgan, and Shelby.⁴² The court of common pleas had exclusive original jurisdiction over insanity inquests and commitments, guardianships, probate of wills, and settlement of estates of decedents, minors, and insane persons; and had original jurisdiction (concurrent with the circuit court) over naturalization proceedings, equity cases, criminal cases (except offenses punishable by death and offenses punishable only by fine not exceeding \$3, and except all felonies where the defendant did not voluntarily submit himself to the jurisdiction of the court), and civil actions at law (except slander, libel, breach of marriage contract, titles to real estate, action on bonds of state and county officers, and actions to recover less than \$50 or more than \$1,000—judgment

³⁹ 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43. *Jones v. Cavins* (1853), 4 Ind. 305.

⁴⁰ 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 1, 3, p. 16. *Jones v. Cavins* (1853), 4 Ind. 305.

⁴¹ 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 29-31, p. 21. Acts 1853, ch. 33, secs. 1, 2. Acts 1855, ch. 27, secs. 72, 94. Acts 1859, ch. 47, sec. 8; ch. 51, sec. 3. Acts 1861, ch. 33, sec. 1. Acts 1865 (Spec. Sess.), ch. 43, sec. 1. Acts 1867, ch. 28, sec. 1. *Jones v. Cavins* (1853), 4 Ind. 305.

⁴² Acts 1859, ch. 51, sec. 1.

This district, composed of said counties, was officially designated "the eighth district." Acts 1861, ch. 28, sec. 1.

could be rendered for more than \$1,000 when based on consent). Any case in which the judge was disqualified could be transferred to the circuit court.⁴³ Decisions of the court of common pleas were reviewable by the Shelby Circuit Court or the Supreme Court of Indiana.⁴⁴ The court of common pleas was abolished on March 6, 1873, and its jurisdiction was transferred to the circuit court.⁴⁵

The constitution provides for tribunals of conciliation with such powers and duties as may be prescribed by law, but without power to render an enforceable judgment in the absence of agreement of the parties to abide the judgment of such tribunal.⁴⁶ Accordingly, the general assembly, by an act of 1852 which became effective on May 6, 1853, established in the county a court of conciliation, to be held by the judge of the court of common pleas. It had jurisdiction of claims and controversies submitted to it for the purpose of effecting a compromise or for determination. In cases of libel, slander, assault and battery, false imprisonment, and malicious prosecution, the complaining party could have the opposite party served with a notice requiring him to appear before the court. Hearings were private and informal. Controversies submitted by both parties to the court for determination were determined according to right and conscience without regard to technical rules. The judge was required to keep a book containing a memorandum of proceedings and the judgment. The law did not authorize an appeal to another court.⁴⁷ This court was abolished in 1865.⁴⁸

A superior court consisting of one judge was established in Shelby County on March 1, 1911. The judicial district was composed of the counties of Marion and Shelby. The law required the incumbent judge of Marion Superior Court Room 5 to serve as judge of that court and the Shelby Superior Court until the expiration of his term of office on January 1, 1913, and that in 1912 and every 4 years thereafter a judge for the two courts should be elected by the voters

⁴³ *U. S. Statutes at Large*, 2:153, 155 (law of 1802); 4:69 (law of 1824). 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, secs. 4, 5, 7, 9, 11, 12, 14, 17, 21, 23.

⁴⁴ 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 13, 20; pt. 2, ch. 1, sec. 550; ch. 10, secs. 189-193; ch. 11, secs. 43-46.

⁴⁵ Acts 1873, ch. 29, secs. 79-83.

⁴⁶ Const. 1851, art. 7, sec. 19.

⁴⁷ 2 Rev. Stat. 1852, pt. 2, ch. 2, secs. 1-3, 5-8, 12, 13, 18, 20. *Jones v. Cavins* (1853), 4 Ind. 305.

⁴⁸ Acts 1865 (Spec. Sess.), ch. 57.

of the judicial district.⁴⁹ The Shelby Superior Court was required to hold four terms of court each year, beginning on the first Monday in February, the fourth Monday in April, the first Monday in September, and the third Monday in November. The law provided that "each term shall continue for five weeks if the business thereof shall require."⁵⁰

The Shelby Superior Court had the same original and appellate jurisdiction as the Shelby Circuit Court concerning naturalization proceedings, civil actions at law, and suits in equity. Its jurisdiction included divorce, injunction, *ne exeat*, habeas corpus, prohibition, mandamus, and receiver-ships. It did not have jurisdiction of criminal cases, juvenile matters, insanity inquests, guardianships, probate of wills, or administration of estates of decedents, minors, or insane persons.⁵¹ The circuit court could transfer to the superior court "any civil action or divorce case" to be disposed of in the superior court as if such case had been commenced originally in the superior court.⁵² Judgments of the superior court had the same force and effect as those of the circuit court, and were enforced in the same manner.⁵³ The county sheriff and the clerk of the circuit court served as sheriff and clerk, respectively, of the superior court.⁵⁴ The judge of the superior court could administer oaths, solemnize marriages, take acknowledgments of deeds, certify as to the authenticity of transcripts of its records and proceedings, compel attendance of witnesses, and punish contempts.⁵⁵ Decisions of the superior court were reviewable by the Supreme Court of Indiana or the Appellate Court of Indiana in the manner provided by law for reviewing decisions of the circuit court.⁵⁶ On January 29, 1913 the Shelby Superior Court was abolished and its business and records were transferred to the Shelby Circuit Court.⁵⁷

⁴⁹ Acts 1911, ch. 67, secs. 1, 4, 10.

⁵⁰ *Ibid.*, secs. 2, 19.

⁵¹ U. S. C., title 8, sec. 357 (laws of 1906, 1911, 1913). Acts 1911, ch. 67, secs. 5, 12, 14-16, 19½.

⁵² Acts 1911, ch. 67, sec. 19½.

⁵³ *Ibid.*, sec. 11.

⁵⁴ *Ibid.*, sec. 8.

⁵⁵ *Ibid.*, sec. 14.

⁵⁶ *Ibid.*, sec. 18.

⁵⁷ Acts 1913, ch. 2, secs. 3-6, 8.

FUNCTIONS AND RECORDS

The circuit court has original jurisdiction of naturalization proceedings under the federal laws, all criminal cases under the state laws (except those punishable only by fine not exceeding \$3, of which the justices of the peace have exclusive original jurisdiction), all civil actions at law, all suits in equity (including divorce suits), election contests, juvenile matters, insanity inquests and commitments, proceedings for removal of county officers, proceedings to commit persons to hospitals operated by Indiana University, guardianships, probate of wills, and administration of estates of decedents, minors, and insane persons. The circuit court is known as the "Juvenile Court" when exercising jurisdiction of juvenile matters.⁵⁸ The United States Department of Labor does not furnish the Shelby Circuit Court with the necessary printed forms for naturalization proceedings, hence this court is prevented from exercising its naturalization jurisdiction. Naturalization forms were furnished to this court until 1930 and will be furnished again whenever the number of aliens in the county is large enough.⁵⁹

The circuit court has appellate jurisdiction⁶⁰ to review

⁵⁸ General provisions. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

Naturalization proceedings. *U. S. Statutes at Large*, 2:153, 155 (law of 1802); 4:69 (law of 1824). *U. S. C.*, title 8, sec. 357 (laws of 1906, 1911, 1913).

Criminal cases within exclusive jurisdiction of justices of peace. Acts 1905; Burns 9-711, 9-715; Baldwin 2080, 2084.

Election contests. Acts 1933, 1935; Burns, 1939 suppl., 29-2301 to 29-2309; Baldwin, 1935 suppl., 7428 to 7435, 7427-1. *State ex rel. Lord v. Sullivan* (1938), 214 Ind. 279, 15 N. E. (2d) 384.

Removal of county officers. Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052. *Bateman v. State* (1938), 214 Ind. 138, 14 N. E. (2d) 1007.

Juvenile matters. Acts 1903, 1913, 1931, 1935, 1937; Burns, 1939 suppl., 9-2801; Baldwin, 1937 suppl., 1759.

Insane persons. 2 Rev. Stat. 1852, Acts 1895; Burns 8-202 *et seq.*; Baldwin 3460 *et seq.* Acts 1855; Burns 22-1401 *et seq.*; Baldwin 1081 *et seq.* Acts 1939; Burns, 1939 suppl., 22-1742; Baldwin, 1939 suppl., 4227-2.

Wills. 2 Rev. Stat. 1852; Burns 7-401, 7-414, 7-503, 7-506; Baldwin 3376, 3338, 3393, 3401. Acts 1911, 1921, 1933; Burns 7-504; Baldwin 3395.

Hospitals operated by Indiana University. Acts 1939; Burns, 1939 suppl., 28-5417; Baldwin, 1939 suppl., 14078-89c.

⁵⁹ Interview of March 5, 1940 with Walter A. Kiefer, Assistant District Director of U. S. Immigration and Naturalization Service, Cincinnati District.

⁶⁰ Acts 1881 (Spec. Sess.), Burns 4-303; Baldwin 1397.

decisions of justices of the peace,⁶¹ mayor's courts, city courts,⁶² board of commissioners,⁶³ board of review fixing value of property for taxation,⁶⁴ taxing authorities determining that property is taxable,⁶⁵ board of public works or board of park commissioners of any city in the county (or city council performing such functions),⁶⁶ and other inferior tribunals when no express direction is given as to the court to which the appeal lies.⁶⁷

The circuit court has power to make all proper judgments, sentences, decrees, orders, and injunctions; to punish contempts; to issue all process necessary for the exercise of its jurisdiction (including process to inferior courts);⁶⁸ and to adopt rules for conducting its business.⁶⁹ Decisions of the circuit court are reviewable by the Supreme Court of Indiana or the Appellate Court of Indiana.⁷⁰

The judge of the circuit court is a conservator of the peace throughout his judicial circuit,⁷¹ and takes all necessary recognizances to keep the peace "or to answer any criminal charge or offense in the court having jurisdiction."⁷² He is a member of the commission of public records.⁷³ He appoints one member of the county school fund board,⁷⁴ five members of the county board of public welfare,⁷⁵ two members of the county board of review,⁷⁶ and four members of the

⁶¹ 2 Rev. Stat. 1852; Burns 5-1001; Baldwin 1931.

⁶² Acts 1905; Burns 4-2415; Baldwin 2390. Acts 1917; Burns 4-2603; Baldwin 11608. Acts 1921; Burns 4-2702; Baldwin 12172. Acts 1923; Burns 4-2802; Baldwin 12336.

⁶³ Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275. 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277. Acts 1905; Burns 36-1501; Baldwin 8858. Acts 1933; Burns 27-117; Baldwin 5753. *State ex rel. Sink v. Cass Circuit Court* (1938), 214 Ind. 323, 15 N. E. (2d) 624.

⁶⁴ Acts 1927; Burns 64-1020; Baldwin 15686.

⁶⁵ Acts 1919, 1927; Burns 64-2103; Baldwin 15304.

⁶⁶ Acts 1933; Burns 48-4501; Baldwin 11576.

⁶⁷ *Hamilton v. Fort Wayne* (1880), 73 Ind. 1.

⁶⁸ 2 Rev. Stat. 1852; Burns 4-305 to 4-307, 4-312; Baldwin 1398 to 1400, 1405.

⁶⁹ 2 Rev. Stat. 1852; Burns 4-313; Baldwin 1406.

⁷⁰ 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 550. Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356.

⁷¹ Const. 1816, art. 5, sec. 5. Const. 1851, art. 7, sec. 15.

⁷² 2 Rev. Stat. 1852; Burns 4-314; Baldwin 1407. *State v. Cooper* (1883), 90 Ind. 575.

⁷³ Acts 1939; Burns, 1939 suppl., 49-3701; Baldwin, 1939 suppl., 5492-1.

⁷⁴ Acts 1865, 1935; Burns, 1939 suppl., 23-209; Baldwin, 1935 suppl., 6558.

⁷⁵ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1113; Baldwin, 1937 suppl., 14078-19.

⁷⁶ Acts 1895, ch. 36, sec. 2. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

county board of tax adjustment.⁷⁷ He would appoint three members of the county public library board⁷⁸ and eight members of the county hospital governing board⁷⁹ if a county library and county hospital were established in the county. He may appoint two tobacco inspectors for the county,⁸⁰ special prosecuting attorneys (in case of disqualification or failure to attend court),⁸¹ special county commissioners (in case of disqualification),⁸² and attorneys to represent poor persons in the circuit court.⁸³ He approves the official bonds of the prosecuting attorney⁸⁴ and the county director of public welfare.⁸⁵ He can solemnize marriages,⁸⁶ administer oaths,⁸⁷ take acknowledgments and proofs of deeds and other documents,⁸⁸ waive certain provisions of the marriage license law requiring laboratory tests and medical certificates,⁸⁹ issue licenses for carrying pistols,⁹⁰ and certify as to the authenticity of transcripts of the records and proceedings of the court.⁹¹

The sheriff, in person or by deputy, attends the circuit court, preserves order therein, makes announcements for the court, calls witnesses to the courtroom, and executes all

⁷⁷ Acts 1932 (Spec. Sess.), ch. 10, sec. 4. Acts 1933, ch. 237, sec. 4. Acts 1837; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

⁷⁸ Acts 1917, 1921, 1927, 1939; Burns, 1939 suppl., 41-510; Baldwin, 1939 suppl., 10321.

⁷⁹ Acts 1903, 1939; Burns, 1939 suppl., 22-3203; Baldwin, 1939 suppl., 4509.

⁸⁰ Acts 1857; Burns 67-308; Baldwin 6461.

⁸¹ Rev. Laws 1824, ch. 24, sec. 12. Acts 1833-34, ch. 92, secs. 1-4. Rev. Stat. 1838, ch. 9 (second act), secs. 1-4. Acts 1851-52, ch. 8, sec. 5. 2 Rev. Stat. 1852; Burns 49-2505; Baldwin 5461. *Perfect v. State* (1926), 197 Ind. 401, 141 N. E. 52; *State ex rel. Williams v. Ellis* (1916), 184 Ind. 307, 112 N. E. 98, *State ex rel. Spencer v. Marion Criminal Court* (1938), 214 Ind. 551, 15 N. E. (2d) 1020.

⁸² Acts 1913; Burns 26-614 to 26-616; Baldwin 5229 to 5231.

⁸³ Acts 1881 (Spec. Sess.); Burns 2-211; Baldwin 26. Acts 1913; Burns 2-1417; Baldwin 189. Acts 1905; Burns 9-1314; Baldwin 2235. *Opinions of the Attorney General of Indiana, 1939*, p. 351.

⁸⁴ 2 Rev. Stat. 1852; Burns 49-2502; Baldwin 5458.

⁸⁵ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1119; Baldwin, 1937 suppl., 14078-20.

⁸⁶ Acts 1897; Burns 44-301; Baldwin 5621.

⁸⁷ 2 Rev. Stat. 1852; Burns 4-312; Baldwin 1405. Acts 1861; Burns 49-601; Baldwin 13053.

⁸⁸ 1 Rev. Stat. 1852, Acts 1859; Burns 56-123; Baldwin 14674.

⁸⁹ Acts 1939; Burns, 1939 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

⁹⁰ Acts 1935, 1937; Burns, 1939 suppl., 10-4738; Baldwin, 1937 suppl., 2569-5.

⁹¹ Acts 1881 (Spec. Sess.); Burns 2-1605, 2-1617, 2-3106; Baldwin 273, 258, 459. Acts 1881 (Spec. Sess.), 1929; Burns 2-2520; Baldwin 392. Acts 1903, 1933; Burns 2-3112; Baldwin 466. 2 Rev. Stat. 1852; Burns 4-307; Baldwin 1400. Acts 1905; Burns 9-2103; Baldwin 2315.

process of the court.⁹² Bailiffs (appointed by the judge as needed) wait on the grand juries and petit juries and preserve order during their proceedings and deliberations. If no bailiff is appointed, the sheriff or his deputy performs these duties.⁹³ The coroner performs these duties of the sheriff in the event of the absence, personal interest, or incapacity of the sheriff, or vacancy in his office.⁹⁴ If the coroner is also absent or incapacitated, the judge appoints an elisor to perform these duties of the sheriff.⁹⁵ The prosecuting attorney acts as attorney for the state in criminal cases under state laws and as attorney for the county and state in certain civil cases.⁹⁶ The probation officer (appointed by the judge for an indefinite term when needed) makes investigations and reports in criminal and juvenile matters as directed by the court, and supervises the conduct of persons on probation.⁹⁷ The county director of public welfare performs duties of the probation officer when so directed by the court.⁹⁸ The court reporter (appointed by the judge for an indefinite term) takes down in shorthand, and thereafter transcribes into typewriting, as directed by the court or the parties, the oral evidence, rulings, instructions to the jury, and other proceedings of the court.⁹⁹ Two jury commissioners (annually appointed by the judge) prepare lists of names from

⁹² 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494. See the essay entitled "Sheriff."

⁹³ 1 Rev. Stat. 1852, ch. 3, sec. 4. 2 Rev. Stat. 1852, pt. 1, ch. 6, sec. 4. Acts 1879, ch. 51, sec. 26. Acts 1881 (Spec. Sess.), ch. 36, sec. 353; ch. 50, sec. 1. Acts 1895, ch. 145, sec. 122. Acts 1899, chs. 83, 112. Acts 1905, ch. 155. Acts 1915, ch. 172. Acts 1919, ch. 134. Acts 1921, ch. 146. Acts 1921, 1935; Burns, 1939 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1905; Burns 9-1501, 9-1810; Baldwin 2246, 2290. *Adams v. State* (1938), 214 Ind. 603, 17 N. E. (2d) 84. *Opinions of the Attorney General of Indiana, 1939*, p. 312.

⁹⁴ 2 Rev. Stat. 1852; Burns 49-2902; Baldwin 5437.

⁹⁵ 2 Rev. Stat. 1852; Burns 4-322, 4-323; Baldwin 1411, 1412.

⁹⁶ 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456.

Freed v. Martin Circuit Court (1938), 214 Ind. 152, 14 N. E. (2d) 910; *State ex rel. Spencer v. Marion Criminal Court* (1938), 214 Ind. 551, 15 N. E. (2d) 1020. See the essay entitled "Prosecuting Attorney."

⁹⁷ Acts 1903, ch. 23, sec. 2. Acts 1925, ch. 218. Acts 1927; Burns 9-2212, 9-2213; Baldwin, 2263, 2264.

⁹⁸ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1120; Baldwin, 1937 suppl., 14078-21. See the essay entitled "County Department of Public Welfare."

⁹⁹ Acts 1881 (Spec. Sess.), ch. 89. Acts 1899, 1927; Burns 4-3501 to 4-3511; Baldwin 1288 to 1292, 1298, 1298-1, 1776, 1297-1, 1293, 1300. *Adams v. State* (1938), 214 Ind. 603, 17 N. E. (2d) 84.

which the grand juries and petit juries are drawn.¹⁰⁰ The court page (appointed by the judge for an indefinite term when needed) serves as messenger for the judge and clerk, and performs minor duties assigned to him by the judge.¹⁰¹ The clerk of the circuit court, in person or by deputy, attends the circuit court, performs the statutory and customary duties of clerk during trials, draws up each day's proceedings at full length in the proper order book (which is signed by the judge), and enters a complete record of causes after completion thereof.¹⁰² All causes are filed in the office of the clerk of the circuit court, and numbered in consecutive order as filed.¹⁰³ The clerk is charged by statute with the duty of keeping and preserving the official records of the court.¹⁰⁴

CIVIL CAUSES

FILING OF ACTIONS

111. ENTRY DOCKET, ISSUE DOCKET AND FEE BOOK, Apr. 19, 1915-. 37 vols. (12-48).

Record of filing and docketing of actions and fees assessed in civil causes, showing cause number, date of filing, names of plaintiff, defendant and attorneys, nature of action, amount and nature of fees, and disposition. This is a combination of three records formerly kept separately: Entry Docket, entry 112; Issue Docket, entry 131; and Fee Book, entry 160. Arr. num. by cause nos. Apr. 19, 1915-Nov. 4, 1935, indexed alph. by names of plaintiffs; Nov. 5, 1935-, indexed alph. by names of plaintiffs and defendants. Hdw. 300 pp. 18 x 12 x 3. 7 vols., Apr. 19, 1915-Jan. 17, 1920, Feb. 10, 1922-Jan. 9, 1923, bsmt. vt., B-13; 30 vols., Jan. 18, 1920-Feb. 9, 1922, Jan. 10, 1923-, clk. off.

¹⁰⁰ Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3306; Baldwin 1266, 1270. Acts 1881 (Spec. Sess.), 1939; Burns, 1939 suppl., 4-3304; Baldwin, 1939 suppl., 1267. *Foreman v. State* (1939), 214 Ind. 79, 14 N. E. (2d) 546.

¹⁰¹ *Dunn v. State ex rel. Corydon* (1933), 204 Ind. 390, 184 N. E. 535. *Opinions of the Attorney General of Indiana, 1939*, p. 312.

¹⁰² 2 Rev. Stat. 1852, Acts 1885 (Spec. Sess.), 1933; Burns 4-324; Baldwin 1413. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433. See the essay entitled "Clerk of the Circuit Court."

¹⁰³ Acts 1881 (Spec. Sess.); Burns 2-1053; Baldwin 158. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

¹⁰⁴ 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

112. ENTRY DOCKET, 1853-Apr. 18, 1915. 12 vols. (two vols. not labeled, 1-4, 4-9). Apr. 19, 1915- in Entry Docket, Issue Docket and Fee Book, entry 111. Record of filing of civil causes, showing date of filing, names of plaintiff and defendant, nature of action, and cause number. Also contains: Criminal Entry Docket, 1853-78, entry 164. Arr. num. by cause nos. Indexed alph. by names of plaintiffs and defendants. Hdw. 500 pp. 18 x 14 x 3. Bsmt. vt., B-13.

113. ENTRY DOCKET, 1911-12. 1 vol. (1). Discontinued. Record of filing of civil causes of superior court, showing cause number, names of plaintiff and defendant, nature of action, and date of issuing process. Arr. num. by cause nos. Indexed alph. by names of plaintiffs. Hdw. 588 pp. 18 x 12 x 3. Bsmt. vt., B-13.

114. ENTRY DOCKET, COMMON PLEAS, 1857-Sept. 1872. 2 vols. (1, 2). Record of filing of civil and criminal causes, showing dates of filing, issuing of process and judgment, names of plaintiff, defendant and attorneys, and number and nature of cause. Arr. num. by cause nos. No index. Hdw. 350 pp. 18 x 13 x 3. Bsmt. vt., B-6.

ORIGINAL DOCUMENTS

115. [COURT DOCUMENTS], 1822-. 1504 f. b. (labeling varies).

Original documents filed in civil, criminal and probate causes, including petitions, summons, complaints, answers to complaints, transcripts, affidavits, bonds, warrants, subpoenas, claims, reports, inventories, bills of sale, notices of appointment and court orders, showing dates of document and filing, cause number, names of plaintiff, defendant, administrator, executor or guardian, wards, heirs and sureties, kind and conditions of document, and action taken. Arr. num. by cause nos. For index to civil and criminal causes of circuit court, 1822-, see entries 116 and 117; for index to civil causes of probate court, 1829-52, and civil and criminal causes of common pleas court, 1853-73, see entries 118 and 119; for index to civil causes of superior court, 1911-May 1913, see entries 120 and 121; for index to estates and guardianships, 1829-79, Oct. 1906-, see entry 175; for index to estates, Mar. 1875-Oct. 1906, see entry 176; for index to guardianships, Mar. 1875-Oct. 1906, see entry 177. Hdw. Typed. 11 x 5 x 14. 1236 f. b., 1825-1926, bsmt. vt., B-13; 263 f. b., 1927-, clk. off.

116. INDEX SUITS DECIDED, PLAINTIFF, 1822-. 11 vols. (1, 2, 4-12).

Index to civil and criminal causes of circuit court in [Court Documents], entry 115, showing names of plaintiff and defendant, when commenced and decided, cause number, and file box reference. Arr. alph. by names of plaintiffs. Hdw. 600 pp. 18 x 12 x 3. Clk. off.

117. INDEX SUITS DECIDED, DEFENDANT, 1822-. 13 vols. (1, 2, 2-12).

Index to civil and criminal causes of circuit court in [Court Documents], entry 115, showing same information as in entry 116. Arr. alph. by names of defendants. Hdw. 550 pp. 13 x 12 x 3. Clk. off.

118. INDEX SUITS DECIDED, PLAINTIFF, 1829-Mar. 1873. 2 vols. (1, 2).

Index to civil causes of probate court, 1829-52 and civil and criminal causes of common pleas court, 1853-Mar. 1873, in [Court Documents], entry 115, showing names of plaintiff and defendant, when commenced and decided, and file box reference. Arr. alph. by names of plaintiffs. Hdw. 500 pp. 18 x 12 x 3. Clk. off.

119. INDEX SUITS DECIDED, DEFENDANT, 1829-Mar. 1873. 2 vols. (1, 2).

Index to civil causes of probate court, 1829-52 and civil and criminal causes of common pleas court, 1853-Mar. 1873, in [Court Documents], entry 115, showing same information as in entry 118. Arr. alph. by names of defendants. Hdw. 500 pp. 18 x 12 x 3. Clk. off.

120. INDEX SUITS DECIDED, PLAINTIFF, 1911-May 1913. 1 vol. (1). Discontinued.

Index to civil causes of superior court in [Court Documents], entry 115, showing same information as in entry 116. Arr. alph. by names of plaintiffs. Hdw. 400 pp. 18 x 12 x 3. Clk. off.

121. INDEX FOR SUITS DECIDED, DEFENDANT, 1911-May 1913. 1 vol. (1). Discontinued.

Index to civil causes of superior court in [Court Documents], entry 115, showing same information as in entry 116. Arr. alph. by names of defendants. Hdw. 385 pp. 18 x 12 x 3. Bsmt. vt., B-13.

122. DISMISSED CASES, 1937-. 26 f. b. (labeled by court terms).

Original documents of dismissed civil causes, including complaints, summons, subpoenas, motions, denials and demurrers,

showing cause number, date of filing, names of plaintiff, defendant, attorneys and witnesses, nature of action, and amount of fees and costs. Arr. num. by cause nos. No index. Hdw. and typed. 11 x 5 x 14. Clk. off.

123. RECEIVERSHIP CLAIMS, 1933-. 2 f. b.

Original claims filed in receivership and assignment causes, showing dates of claim and filing, names of receiver, receivership, assignee, assignor and claimant, amount and nature of claim, and cause and claim numbers. Arr. num. by claim nos. No index. Hdw. and typed. 11 x 5 x 14. Clk. off.

SANITY (see also entries 159, 301)

124. INSANE RECORD, 1860-Feb. 21, 1927. 8 vols. (1-8).

Feb. 22, 1927- in Order Book, entry 137.

Record of inquests and proceedings in matters of alleged insanity, showing dates of inquest, commitment, discharge and death, name, age, sex and color of patient, names of examining physicians, witnesses and institution, physician's report, court order for commitment, and sheriff's return. Arr. chron. by dates of inquests. Indexed alph. by names of patients. Hdw. 450 pp. 18 x 12 x 3. Bsmt. vt., B-13.

125. INSANE RECORD, RECOMMITMENTS, 1881-Jan. 28, 1927.

1 vol. (1). Jan. 29, 1927- in Order Book, entry 137.

Record of proceedings for recommitment of insane persons to state institutions, showing dates of proceedings, recommitment, discharge or death, name, age, sex, color and personal history of patient, names of medical examiners, witnesses and institution, medical examiners' reports, court order for recommitment, and sheriff's return. Arr. chron. by dates of proceedings. Indexed alph. by names of patients. Hdw. 350 pp. 18 x 12 x 2. Bsmt. vt., B-13.

126. INSANITY, 1921-. 6 f. b. (two f. b. not labeled, 977-979, 1076).

Original documents filed in causes of alleged insanity, including record of inquests, warrants of arrest, record of proceedings to recommit, responses to applications for admission, clothing requisitions, and notices of discharge or death, showing dates of document, discharge or death and filing, names of patient, examining physician, witnesses and institution, list of clothing furnished, fees assessed, and disposition made. Arr. chron. by dates of filing. No index. Hdw. 11 x 5 x 14. 2 f. b., 1921-26, bsmt. vt., B-13; 4 f. b., 1927-, clk. off.

NATURALIZATION

127. NATURALIZATION, INTENTION, 1852-1930. 3 vols. (two vols. not labeled, 1). Last entry May 15, 1928. Discontinued.

Original declarations of intention to become naturalized citizens of U. S., showing date of declaration, name and address of court, name, address, occupation, sex, race, nationality, date and place of birth, marital status, physical description and last foreign residence of alien, name and place and date of birth of alien's wife, dates and places of marriage and arrival in U. S., dates and places of birth and residences of children, name of vessel, and declaration, court serial and certificate of arrival numbers. Arr. chron. by dates of declarations. Indexed alph. by names of aliens. Hdw. 150 pp. 14 x 12 x 2. 1 vol., 1852-Oct. 8, 1866, bsmt. vt., B-13; 2 vols., Oct. 9, 1866-1930, clk. vt.

128. PETITION AND RECORD, 1877-Jan. 19, 1905, 1908-30. 2 vols. Title varies: Second Papers, 1877-Jan. 19, 1905, 1 vol. Discontinued.

Original petitions for naturalization, affidavits of witnesses and oaths of allegiance, showing date of petition, name of court, name, address, age, occupation, dates and places of birth and marriage, race and marital status of petitioner, names, addresses and dates and places of birth of children, last foreign residence, ports of sailing and entry, date of arrival, name of vessel, length of residence in county, affidavits of witnesses and petitioner, oath of allegiance to U. S. and renunciation of foreign allegiance, petition and certificate of arrival numbers, and court order granting citizenship. Arr. num. by petition nos. Indexed alph. by names of petitioners. Hdw. 150 pp. 14 x 12 x 2. 1 vol., 1877-Jan. 19, 1905, bsmt. vt., B-13; 1 vol., 1908-30, clk. vt.

129. CERTIFICATES OF NATURALIZATION, 1908-Jan. 25, 1923. 4 vols. Discontinued.

Stubs of certificates of naturalization issued to naturalized citizens by clerk of circuit court, showing dates of declaration of intention and court order admitting petitioner to citizenship, name and age of naturalized citizen, names, ages and addresses of wife and minor children, and petition and certificate numbers. Arr. num. by certificate nos. No index. Hdw. 25 pp. 10 x 5 x 1/2. Clk. vt.

MINUTES

130. BAR DOCKET, 1831-Mar. 1836, 1840-Apr. 1853, Sept. 1859-Nov. 1866, Oct. 1871-May 1876. 8 vols. Calendar of civil, criminal and probate causes set for trial,

showing court term, cause number, names of plaintiff, defendant, attorneys and witnesses, cause of action, and situation. 1831-Mar. 1836, 1840-Feb. 1846, arr. by court terms; Aug. 1846-Apr. 1853, Sept. 1859-Nov. 1866, Oct. 1871-May 1876, arr. num. by cause nos. No index. Hdw. 500 pp. 18 x 12 x 2. Bsm't. vt., B-6.

131. ISSUE DOCKET, 1859-Nov. 1861, May 1906-Jan. 1913, Feb. 1914-Mar. 1918. 11 vols. (four vols. not labeled, 42, 44-48 and one vol. not labeled). Apr. 19, 1915—in Entry Docket, Issue Docket and Fee Book, entry 111.

Record of civil causes pending trial, showing date of filing, court term, cause number, names of plaintiff, defendant and attorneys, nature of action, and proceedings of court. Arr. chron. by court terms, thereunder num. by cause nos. No index. Hdw. 500 pp. 18 x 12 x 2. 3 vols., 1859-Nov. 1861, May 1906-7, May 1912-Jan. 1913, bsm't. vt., B-6; 8 vols., 1908-Mar. 1912, Feb. 1914-Mar. 1918, bsm't. vt., B-13.

132. COURT DOCKET, 1830-July 1838, Aug. 1840-Apr. 1853, Oct. 1858-Oct. 1870, Mar. 1874-Oct. 1887, May 1889-. 60 vols. (nine vols. not labeled, 6-22, 24-29, 29-49, six vols. not labeled), 1 box.

Record of actions and proceedings in civil causes, showing cause number, court term, dates of filing and action, names of plaintiff, defendant and attorneys, kind of action, proceedings of court, and volume and page reference to Order Book, entry 137. Also Contains: Criminal Court Docket, 1830-July 1838, Aug. 1840-Apr. 1853, Oct. 1858-Oct. 1870, Mar. 1874-Oct. 1887, May 1889-92, entry 163; Probate Court Docket, Mar. 1874-May 1881, entry 196. Arr. num. by cause nos. No index. Hdw. Vols., 400 pp. 18 x 12 x 2; box, 11 x 15 x 25. 54 vols., 1830-July 1838, Aug. 1840-Apr. 1853, Oct. 1858-Oct. 1870, Mar. 1874-Oct. 1887, May 1889-Mar. 1918, bsm't. vt., B-6; 1 box, 5 vols., 1909-36, bsm't. vt., B-13; 1 vol., 1929-, clk. off.

133. COURT DOCKET, [Common Pleas], 1858-Mar. 1873. 9 vols.

Record of actions and proceedings in all causes of common pleas court, including:

- i. Civil causes, showing same information as in entry 132.
- ii. Criminal causes, showing same information as in entry 163.
- iii. Probate causes, showing same information as in entry 196.

Arr. num. by cause nos. No index. Hdw. 300 pp. 18 x 12 x 2. Bsm't. vt., B-6.

134. ISSUE DOCKET, 1911-12. 1 vol. (1). Discontinued. Record of civil causes docketed for trial in superior court, showing dates of filing and action, cause number, names of plaintiff, defendant and attorneys, nature of action, and proceedings. Arr. num. by cause nos. No index. Hdw. 508 pp. 16 x 12 x 2. Bsm't. vt., B-13.

135. COURT DOCKET, 1911-12. 1 vol. (1). Discontinued. Record of actions and proceedings in civil causes of superior court, showing cause number, dates of filing and action, names of plaintiff, defendant, attorneys and witnesses, nature of action, and court proceedings. Arr. num. by cause nos. Indexed alph. by names of plaintiffs. Hdw. 508 pp. 16 x 12 x 2. Bsm't. vt., B-13.

136. INDEX AND RECORD OF RECEIVERSHIPS AND ASSIGNMENTS, 1915-. 1 vol.
Record of filing of actions and filing and allowance of claims in receivership and assignment causes, showing cause number, date of filing, name of firm or corporation for whom receivership is asked or assignment made, names and addresses of person applying for receivership or assignment and receiver or assignee, name of claimant, dates and amounts of claim and allowance, claim number, disposal of claim, and volume and page reference to Entry Docket, Issue Docket and Fee Book, entry 111. Arr. num. by cause nos. Indexed alph. by names of firms or corporations and persons applying for receiverships or assignments. Hdw. 216 pp. 18 x 18 x 2. Clk. off.

ORDERS

137. ORDER BOOK, 1822-. 111 vols. (A-Z, AA-ZZ, 3A-3Z, 4A-4Z, 5A-5G).

Record of jury and court verdicts, judgments and court orders in civil and criminal causes, showing court term, date of action, names of plaintiff, defendant, attorneys and witnesses, cause number, nature of action, amounts of fees and costs, and verdict, judgment and order of the court. Also contains: Record of Insurance, 1877-90, 1899-1910, entry 49; Insane Record, Feb. 22, 1927-, entry 124; Insane Record, Reccommitments, Jan. 29, 1927-, entry 125; Order Book, Transcript to Bind Real Estate, 1823-88, July 11, 1902-Apr. 29, 1926, entry 138; Affidavit Record, 1823-81, entry 165; Indictment Record, 1823-52, entry 166; Recognizance Bond Record, 1823-1927, entry 167. Arr. chron. by court terms. Indexed alph. by names of

plaintiffs and defendants. 1822-Sept. 1907, hdw.; Oct. 1907-, typed. 500 pp. 18 x 12 x 3. Clk. off.

138. ORDER BOOK, TRANSCRIPT TO BIND REAL ESTATE, 1889-July 10, 1902, Apr. 30, 1926-. 3 vols. (1, 2, 2). 1823-88, July 11, 1902-Apr. 29, 1926 in Order Book, entry 137.

Record of transcripts of judgments rendered in justice of peace courts, filed with clerk and entered on judgment docket, establishing liens against real property of judgment debtors, showing dates of judgment, transcript and filing, names of township, justice of peace and judgment debtor and creditor, cause number, and amounts of judgment, interest and costs. Arr. chren. by dates of filing. Indexed alph. by names of judgment debtors and creditors. 1889-July 10, 1902, hdw.; Apr. 30, 1926-, typed. 1 vol., 1889-Oct. 10, 1894, bsmt. vt., B-13; 2 vols., Oct. 11, 1894-July 10, 1902, Apr. 30, 1926-, clk. off.

139. TRANSCRIPTS TO BIND REAL ESTATE, 1917-37. 2 f. b. Transcripts to bind real estate for executions of judgments rendered in justice of peace courts, showing dates of transcript, judgment and filing, cause number, names of plaintiff, defendant, justice of peace and township, amounts of judgment, interest, costs and total, judgment rendered, and constable's return. Arr. chron. by dates of filing. No index. Hdw. and typed. 5 x 4 x 11. Bsmt. vt., B-13.

140. ORDER BOOK, COM[mon] PLEAS, 1853-74. 15 vols. (1-15).

Record of jury and court verdicts, judgments and court orders in civil and criminal causes of common pleas court, 1853-73, and circuit court, 1874, showing court term, date of action, names of plaintiff and defendant, cause number, nature of action, and verdict, judgment and order of the court. Arr. chron. by court terms. Indexed alph. by names of plaintiffs. Hdw. 588 pp. 18 x 12 x 3. Clk. off.

141. ORDER BOOK, SHELBY SUPERIOR COURT, 1911-Feb. 1913. 1 vol. (1). Discontinued.

Record of jury and court verdicts, judgments and orders of the court in civil cases of superior court, showing date of action, term of court, names of plaintiff, defendant, attorneys and witnesses, nature of action, cause number, and verdict, judgment and order of the court. Arr. chron. by court terms. Indexed alph. by names of plaintiffs. Typed. 585 pp. 18 x 12 x 3. Clk. off.

JUDGMENTS

142. JUDGMENT DOCKET INDEX, 1882-. 2 vols. (one vol. not labeled, 2).

General index to Judgment Docket, entry 143, and to Judgment Docket, entry 145, showing names of judgment debtor and creditor, and volume and page reference to recording. Arr. alph. by names of judgment debtors. Hdw. 350 pp. 18 x 12 x 3. 1 vol., 1882-Sept. 1905, bsmt. vt., B-13; 1 vol., Oct. 1905-, clk. off.

143. JUDGMENT DOCKET, 1826-Apr. 4, 1901, May 11, 1905-. 26 vols. (one vol. not labeled, B, 3-17, 19-27).

Record of civil and criminal judgments rendered in circuit court, showing dates of judgment and satisfaction, names of judgment debtor and creditor and attorneys, number and nature of cause, amounts of judgment, interest and costs, and receipt of satisfaction. Arr. chron. by dates of judgments. 1826-Nov. 1839, no index; Dec. 1839-Apr. 4, 1901, May 11, 1905-, indexed alph. by names of judgment debtors; for separate index, 1882-, see entry 142. Hdw. 300 pp. 18 x 12 x 3. 17 vols., 1826-Oct. 4, 1891, 1895-Apr. 4, 1901, May 11, 1905-July 27, 1909, bsmt. vt., B-6; 2 vols., Oct. 5, 1891-94, July 28, 1909-Jan. 27, 1915, bsmt. vt., B-13; 7 vols., Jan. 28, 1915-, clk. off.

144. JUDGMENT DOCKET, 1852-Mar. 17, 1873. 6 vols. (1-6). Record of civil and criminal judgments rendered in common pleas court, showing same information as in entry 143. 1852-Mar. 1, 1857, arr. alph. by names of judgment debtors; Mar. 2, 1857-Mar. 17, 1873, arr. chron. by dates of judgments. 1852-Mar. 1, 1857, no index; Mar. 2, 1857-Mar. 17, 1873, indexed alph. by names of judgment debtors. Hdw. 300 pp. 18 x 12 x 2. Bsmt vt., B-6.

145. JUDGMENT DOCKET, 1911-12. 1 vol. (1). Discontinued. Record of civil judgments rendered in superior court, showing same information as in entry 143. Arr. num. by cause nos. Indexed alph. by names of judgment debtors; for separate index, see entry 142. Hdw. 365 pp. 18 x 12 x 2. Bsmt. vt., B-13.

EXECUTIONS (see also entries 222-224)

146. EXECUTION DOCKET, 1824-Jan. 20, 1844, Oct. 6, 1845-. 20 vols. (A, B, one vol. not labeled, 1-17).

Record of executions of court decrees to satisfy judgments, showing dates of writ, judgment and sheriff's return, cause number, names of plaintiff, defendant, attorneys and judgment debtor, amounts of judgment, interest, costs and total, and

description of property. Arr. chron. by dates of writs. 1824-May 29, 1839, no index; May 30, 1839-Jan. 20, 1844, indexed alph. by names of plaintiffs and defendants; Oct. 6, 1848-Dec. 10, 1860, Aug. 1896-, indexed alph. by names of judgment debtors; 1859-July 1896, indexed alph. by names of plaintiffs. Hdw. 300 pp. 18 x 12 x 2. 14 vols., 1824-Jan. 20, 1844, Oct. 6, 1848-July 1896, bsmt. vt., B-6; 2 vols., Aug. 1896-Oct. 9, 1925, bsmt. vt., B-13; 4 vols., Oct. 10, 1925-, clk. off.

147. EXECUTION DOCKET, COMMON PLEAS, 1853-Oct. 27, 1875.
7 vols. (1-7).

Record of executions of court decrees to satisfy judgments rendered in common pleas court, showing same information as in entry 146. Arr. chron. by dates of writs. Indexed alph. by names of judgment debtors. Hdw. 350 pp. 18 x 12 x 2½. Bsmt. vt., B-6.

148. EXECUTION DOCKET, 1911-Jan. 6, 1914. 1 vol. (1).
Discontinued.

Record of executions of court decrees to satisfy judgments rendered in superior court, showing same information as in entry 146. Arr. chron. by dates of writs. Indexed alph. by names of plaintiffs. Hdw. 250 pp. 18 x 12 x 2. Bsmt. vt., B-13.

149. EXECUTIONS RECORDED, 1922-33. 12 f. b.

Original writs for execution of judgment decrees, showing cause number, dates of writ, return and filing, names of plaintiff, defendant and attorneys, amounts of judgment, costs and total, and sheriff's return. Arr. num. by cause nos. No index. 1922-24, hdw. and typed; 1925-33, hdw. 5 x 4 x 11. Bsmt. vt., B-13.

150. LIS PENDENS RECORD, COMPLAINTS, 1877-. 1 vol. (1).
Record of complaints filed against owners of property which may be subject to possible judgment, showing date and time of recording and satisfaction, names of plaintiff, defendant, attorneys and court, cause number, nature of complaint, location and description of property, and volume and page reference to Order Book, entry 177. Also contains: [Lis Pendens, Sheriff's Notices], 1905-, entry 151; Lis Pendens Record [Certificate of Sale], 1877-80, 1890-, entry 152; Lis Pendens Record [Redemption of Land], 1877-83, 1906-, entry 154. Arr. num. by cause nos. Indexed alph. by names of plaintiffs and defendants. Hdw. 375 pp. 18 x 12 x 3. Clk. off.

151. [LIS PENDENS, SHERIFF'S NOTICES], 1880-1904. 1 vol.
1905-in Lis Pendens Record, Complaints, entry 150.
Record of notices of levies upon or attachment of property

by sheriff upon orders issued by clerk of circuit court, showing dates of notice, satisfaction and recording, time of recording, names of plaintiff, defendant, attorneys and court, cause number, location and description of property, and sheriff's return. Arr. chron. by dates of notices. Indexed alph. by names of plaintiffs and defendants. Hdw. 588 pp. 18 x 12 x 3. Bsmt. vt., B-6.

152. LIS PENDENS RECORD [Certificate of Sale], 1881-May 18, 1889. 1 vol. 1877-80, 1890- in Lis Pendens Record, Complaints, entry 150.

Record of certificates issued by sheriff to purchaser of property sold to satisfy judgments by court order, showing dates of court order, judgment, certificate and filing, names of plaintiff, defendant, owner and purchaser, location and description of property, cause number, date and amount of sale, amount of costs. Arr. chron. by dates of certificates. Indexed alph. by names of plaintiffs and defendants. Hdw. 588 pp. 18 x 12 x 3. Bsmt. vt., B-13.

For sheriff's deed record, see entry 79.

153. RECORD OF CERTIFICATE OF PURCHASE, Apr. 23, 1881-Mar. 17, 1883. 1 vol.

Record of certificates of purchase issued by sheriff for property sold upon complaint for judgment, showing dates of judgment and sale, names of plaintiff, defendant and purchaser, nature of writ, amount of judgment, total sale and costs, and date of assignment. Arr. chron. by dates of sales. Indexed alph. by names of plaintiffs. Hdw. 400 pp. 16 x 11 x 2. Bsmt. vt., B-6.

154. LIS PENDENS RECORD [REDEMPTION OF LAND], 1885-Apr. 7, 1905. 1 vol. (1). 1877-83, 1906- in Lis Pendens Record, Complaints, entry 150.

Record of documents pertaining to redemption of property sold at sheriff's sales including:

- i. Certificates of entry of redemption of property by owners, showing dates of judgment, sale, entry and recording, names of plaintiff, defendant and redeemer, amounts of judgments and redemption, cause number, location and description of property, and volume and page reference to Lis Pendens, [Certificate of Sale], entry 152. Arr. chron. by dates of certificates.
- ii. Record of affidavits and statements in redemption of property sold at sheriff's sales, 1900, showing dates of affidavit and recording, names of plaintiff,

defendant and affiant, cause number, amounts of judgment and interest, location and description of property, conditions of affidavit, and volume and page reference to Execution Docket, entry 146. Arr. chron. by dates of affidavits.

- iii. Record of certificates of redemption of property sold at sheriff's sales, 1898-1900, showing dates of redemption and recording, name of plaintiff, defendant and redeemer, cause number, amount of redemption, and location and description of property. Arr. chron. by dates of certificates.

No index. Hdw. 500 pp. 18 x 12 x 3. Bsmt. vt., B-13.

- 155. [LIS PENDENS, REDEMPTION], 1879-1904. 1 vol.

Record of certificates of redemption of property sold at sheriff's sales, showing dates of certificate and recording, names of plaintiff, defendant and redeemer, amount of redemption, cause number, and location and description of property. Arr. chron. by dates of certificates. Indexed alph. by names of plaintiffs. Hdw. 500 pp. 18 x 12 x 3. Bsmt. vt., B-6.

COMPLETE TRANSCRIPTS

156. COMPLETE RECORD, 1823-May 1893. 16 vols. (A-P). Complete record of actions and proceedings in civil and criminal causes of circuit court, showing dates of filing, court action and recording, cause number, names of plaintiff, defendant, attorneys and witnesses, nature of action, and proceedings of court. Arr. chron. by dates of recording. Indexed alph. by names of plaintiffs and defendants. Hdw. 500 pp. 18 x 12 x 3. Clk. off.

- 157. COMPLETE RECORD, COM[mon] PLEAS, 1858-Mar. 1873. 3 vols. (1-3).

Complete record of actions and proceedings in causes of common pleas court involving title to real property, showing court term, dates of filing and action, names of plaintiff and defendant, nature of action, cause number, and proceedings of court. Arr. chron. by court terms. Indexed alph. by names of plaintiffs. Hdw. 500 pp. 18 x 12 x 3. Clk. off.

FEE AND CASH RECORDS

- 158. SUPPORT DOCKET, 1912-. 3 vols. (1-3).

Record of money received and disbursed for support and alimony, showing dates of court order, receipt and disbursement, title and number of cause, nature of action, name of judgment

debtor, amounts of receipt and disbursement, and volume and page reference to Order Book, entry 137. Arr. chron. by dates of court orders. Indexed alph. by names of judgment debtors. Hdw. 400 pp. 14 x 12 x 3. Clk. off.

159. CERTIFICATE OF FEES, INSANITY CAUSES, 1930-. 2 vols. Stubbs of certificates of fees in insanity causes issued by clerk to auditor, showing date of certificate, name of claimant, title and number of cause, and amount of fees. Arr. chron. by dates of certificates. No index. Hdw. 100 pp. 14 x 10 x 1/2. 1 vol., 1930-July 9, 1936, bsmt. vt., B-13; 1 vol., July 10, 1936-, clk. off.

160. FEE BOOK, 1825-Apr. 18, 1915. 37 vols. (A-Z, 1-11). Apr. 19, 1915-in Entry Docket, Issue Docket and Fee Book, entry 111.

Record of fees and costs assessed in civil causes, showing cause number, date of filing, names of plaintiff and defendant, nature of action, and itemized account of fees and costs. Also contains: Fee Book, Criminal, 1825-Feb. 1887, entry 169. 1825-68, arr. chron. by dates of filing; 1869-Apr. 18, 1915, arr. num. by cause nos. 1825-89, no index; 1840-Apr. 18, 1915, indexed alph. by names of plaintiffs. Hdw. 500 pp. 18 x 12 x 3. Bsmt. vt., B-6.

161. FEE BOOK, COMMON PLEAS, 1853-74. 10 vols. (1-10). Record of fees and costs in civil and criminal causes of common pleas court, showing cause number, names of plaintiff, defendant and payer, nature and amount of fees and costs, and date of payment. Arr. num. by cause nos. Indexed alph. by names of plaintiffs. Hdw. 500 pp. 18 x 12 x 3. Bsmt. vt., B-6.

162. FEE BOOK, SHELBY SUPERIOR COURT, 1911-12. 1 vol. (1). Discontinued.

Record of fees assessed in civil causes of superior court, showing date of filing, cause number, names of plaintiff and defendant, nature of action, amount and nature of fees assessed, and receipt of satisfaction. Arr. chron. by dates of filing. Indexed alph. by names of plaintiffs. Hdw. 588 pp. 18 x 12 x 3. Bsmt. vt., B-6.

CRIMINAL CAUSES

(See also entries 115-119, 130, 133, 137, 140, 143, 144, 161)

FILING OF ACTIONS

163. FEE BOOK [CRIMINAL ENTRY DOCKET AND FEE BOOK], Nov. 27, 1935-. 1 vol. (6).

Record of filing of actions and fees assessed in criminal causes, showing cause number, dates of filing and action,

names of defendant, attorneys and witnesses, nature of charge, amounts of fees and costs, and receipt of satisfaction. This is a combination of two records formerly kept separately: Criminal Entry Docket, entry 164, and Fee Book, Criminal, entry 169. Arr. num. by cause nos. Indexed alph. by names of defendants. Hdw. 300 pp. 18 x 12 x 3. Clk. off.

164. CRIMINAL ENTRY DOCKET, 1879-Sept. 12, 1935. 2 vols. (one vol. not labeled, 2). 1858-78 in Entry Docket, entry 112; Nov. 27, 1935- in Fee Book [Criminal Entry Docket and Fee Book], entry 163.

Record of filing of criminal causes, showing cause number, dates of filing and judgment or disposal, names of plaintiff, defendant and attorneys, and nature of charge. Arr. num. by cause nos. Indexed alph. by names of defendants. Hdw. 400 pp. 18 x 12 x 3. 1 vol., 1879-Jan. 18, 1919, bsmt. vt., B-13; 1 vol., Jan. 19, 1919-Sept. 12, 1935, clk. vt.

AFFIDAVITS AND INDICTMENTS

165. AFFIDAVIT RECORD, 1882-. 5 vols. (1-5). Title varies: Information Record, 1882-May 15, 1925, 2 vols. 1823-81 in Order Book, entry 137.

Transcripts of affidavits filed in criminal causes, showing dates of affidavit and alleged offense, names of affiant, defendant and witnesses, nature of charge, and cause number. 1882-May 15, 1925, no obvious arr.; May 16, 1925-, arr. num. by cause nos. Indexed alph. by names of defendants. Hdw. 300 pp. 18 x 12 x 2. Clk. vt.

166. INDICTMENT RECORD, 1858-. 10 vols. (one vol. not labeled, 1-6, 6-8). 1823-52 in Order Book, entry 137.

Record of indictments returned by grand juries, showing dates of alleged offense, indictment and recording, names of defendant, witnesses and jurors, nature of charge, and cause number. Arr. chron. by dates of indictments. Indexed alph. by names of defendants. Hdw. 500 pp. 18 x 12 x 2. 6 vols., 1858-97, bsmt. vt., B-6; 3 vols., 1898-June 9, 1932, bsmt. vt., B-13; 1 vol., June 10, 1932-, clk. off.

BONDS

167. RECOGNIZANCE BOND RECORD, 1928-. 1 vol. (1). 1823-1927 in Order Book, entry 137.

Record of bonds posted by defendants in criminal causes to assure their appearances in court, showing dates of bond and appearance, names of defendant and sureties, nature of charge, cause number, and amount and conditions of bond. Arr. chron. by dates of bonds. Indexed alph. by names of defendants. Hdw. 450 pp. 18 x 12 x 3. Clk. off.

MINUTES

168. CRIMINAL COURT DOCKET, 1893-1901, Oct. 1904-. 12 vols. (1-4, 6-11 and two vols. not labeled). 1830-July 1838, Aug. 1840-Apr. 1853, Oct. 1858-Oct. 1870, Mar. 1874-Oct. 1887, May 1889-92 in Court Docket, entry 132.

Record of actions and proceedings in criminal causes, showing dates of filing, trial and disposition, names of defendant, attorney and witnesses, nature and number of cause, proceedings of court, and disposition. Arr. num. by cause nos. No index. Hdw. 300 pp. 18 x 12 x 2. 10 vols., 1893-1901, Oct. 1904-20, bsmt. vt., B-13; 1 vol., 1921-36, clk. vt.; 1 vol., 1921-, clk. off.

FEES

169. FEE BOOK, CRIMINAL, Mar. 1887-Nov. 26, 1935. 5 vols. (1-5). 1825-Feb. 1887 in Fee Book, entry 160; Nov. 27, 1935- in Fee Book [Criminal Entry Docket and Fee Book], entry 163.

Record of fees and costs assessed in criminal causes, showing cause number, date of filing, names of defendant and witnesses, amounts and nature of fees and costs, and receipt of satisfaction. Arr. num. by cause nos. Indexed alph. by names of defendants. Hdw. 586 pp. 18 x 12 x 3. 3 vols., Mar. 1887-July 11, 1915, bsmt. vt., B-6; 2 vols., July 12, 1915-Nov. 26, 1935, clk. off.

PROBATE CAUSES

(See also entries 115, 118, 119, 130, 133)

FILING OF ACTIONS

170. ESTATE ENTRY, CLAIM AND ALLOWANCE DOCKET AND FEE BOOK, June 1918-. 11 vols. (1-11).

Record of actions filed, claims allowed and fees assessed in estate causes, showing dates of filing and allowance, cause number, names of estate, administrator or executor, sureties and claimants, amounts of inventory and appraisement, sale bills, claims, allowances, fees and administrator's or executor's bond, receipt of satisfaction, and volume and page reference to Probate Order Book, entry 197. This is a combination of two records formerly kept separately: General Entry, Claim and Allowance Docket, entry 171; estate fees in Fee Book, Probate, entry 202. Arr. num. by cause nos. Indexed alph. by names of estates. Hdw. 300 pp. 18 x 12 x 3. Clk. off.

171. GENERAL ENTRY, CLAIM AND ALLOWANCE DOCKET, 1853-May 1918. 14 vols. (1-4, 1-10). Title varies: Appearance Docket, Com[mon] Pleas, 1853-Mar. 1881, 4 vols. June 1918- in Estate Entry, Claim and Allowance Docket and Fee Book, entry 170.

Record of filing actions and allowances of claims in estate causes, showing cause number, dates of appointment of administrator or executor, filing, allowance and court action, names of estate, administrator or executor, sureties and claimant, amounts of bond, claim and allowance, nature and number of claim, court proceedings, and volume and page references to Probate Order Book, entry 197 and Fee Book, Probate, entry 202. Arr. num. by cause nos. Indexed alph. by names of estates. Hdw. 300 pp. 18 x 12 x 3. Clk. off.

172. GUARDIAN'S DOCKET AND FEE BOOK, Apr. 1918-. 3 vols. (1-3).

Record of filing of actions and assessments of fees in guardianship causes, showing cause number, dates of filing and proceedings, names of guardian, decedent and sureties, names, ages and dates of birth of wards, amount of guardian's bond, court proceedings, itemized account of fees assessed, and receipts of satisfaction. This is a combination of two records formerly kept separately: Guardian's Docket, entry 173, and guardianship fees in Fee Book, Probate, entry 202. Arr. num. by cause nos. Indexed alph. by names of wards. Hdw. 300 pp. 18 x 12 x 3. Clk. off.

173. GUARDIAN'S DOCKET, 1886-Mar. 1918. 5 vols. (1-5).
Apr. 1918- in Guardian's Docket and Fee Book, entry 172.

Record of filing of actions in guardianship causes, showing dates of filing, letters of guardianship and proceedings, names of guardian, wards and sureties, amount of guardian's bond, and volume and page reference to Probate Order Book, entry 197. Arr. chron. by dates of letters. Indexed alph. by names of wards. Hdw. 300 pp. 18 x 13 x 3. Clk. off.

174. TRUST ENTRY DOCKET AND FEE BOOK, 1932-. 1 vol. (1).

Record of filing of actions and assessments of fees in trusteeships, showing cause number, dates of filing, action and certificate of trusteeship, names of trusteeship, trustee and sureties, amounts of bond, fees and costs, nature of action, and volume and page reference to Probate Order Book, entry 197. Arr. num. by cause nos. Indexed alph. by names of trusteeships. Hdw. 300 pp. 18 x 12 x 3. Clk. off.

ORIGINAL DOCUMENTS

175. INDEX ESTATES AND GUARDIANSHIPS SETTLED, 1829-79, Oct. 1906-. 2 vols. (1, 2).

Partial index to settled estate and guardianship causes in [Court Documents], entry 115, showing name of estate or guardianship, when settled, and file box reference. This is a combination of two records intercurrently kept separately: Index Estates Settled, entry 176 and Index Guardianship Settled, entry 177. Arr. alph. by names of estates and guardianships. Hdw. 600 pp. 18 x 12 x 3. Clk. off.

176. INDEX ESTATES SETTLED, Mar. 1875-Oct. 1906. 2 vols. (2, 3). 1829-Feb. 1879, Oct. 1906- in Index Estates and Guardianships Settled, entry 175.

Partial index to settled estate causes in [Court Documents], entry 115, showing names of estate and administrator or executor, kind of case, when settled, and file box reference. Arr. alph. by names of estates, administrators and executors. Hdw. 600 pp. 18 x 12 x 3. Clk. off.

177. INDEX GUARDIANSHIP SETTLED, Mar. 1875-Oct. 1906. 1 vol. (2). 1829-Feb. 1879, Oct. 1906- in Index Estates and Guardianships Settled, entry 175.

Partial index to settled guardianship causes in [Court Documents], entry 115, showing names of guardianship and guardian, kind of case, when settled, and file box reference. Arr. alph. by names of guardianships. Hdw. 500 pp. 18 x 12 x 3. Clk. off.

178. ESTATE, 1933-. 12 f. b. (AB, C, D, E-G, H, H-K, LM, MMc, N-R, S, TU, V-Z).

Original documents filed in estate causes pending settlement, including wills, reports, claims, inventories and sale bills, showing dates of document and filing, cause number, names of estate, administrator or executors, heirs and claimant, kind of document, and action taken. Arr. alph. by names of estates. No index. Hdw. and typed. 11 x 5 x 14. Clk. off.

179. GUARDIANSHIPS, 1906-. 15 f. b. (AB, C, CD, E-G, G, H, IJ, JK, LMc, M, N-R, S, ST, U-W, W-Z).

Original documents filed in guardianship causes pending settlement, including letters of guardianship, claims, reports, inventories, sale bills, bonds and orders, showing dates of document and filing, cause number, names of guardianship, guardian, wards, claimant, appraiser and sureties, kind of document, and action taken. Arr. alph. by names of guardianships. No index. Hdw. and typed. 11 x 5 x 14. Clk. off.

180. TRUSTEESHIPS, 1912-. 7 f. b. (A-D, De Prez, E-H, I-L, M-Q, R-V, W-Z).

Original documents filed in trusteeship causes pending settlement, including letters of trusteeship, bonds, inventories, sale bills and claims, showing dates of document and filing, cause number, names of trusteeship, trustee, sureties and claimant, kind of document, and action taken. Arr. alph. by names of trusteeships. No index. Hdw. and typed. 11 x 5 x 14. Clk. off.

BONDS

181. ADMINISTRATOR'S BOND RECORD, 1853-. 9 vols. (1, one vol. not labeled, 3, 1-6). 1844-52 in Letters of Administration, entry 188.

Record of bonds posted by, oaths taken by and letters of administration issued to administrators and trustees of estates, showing dates of bond, oath and letters, names of decedent, administrator or trustee and sureties, administrator's oath, and amount and conditions of bond. Arr. chron. by dates of bonds. Indexed alph. by names of decedents; for separate index, 1871-98, see entry 24. Hdw. 588 pp. 18 x 12 x 3. 4 vols., 1853-Dec. 5, 1905, bsmt. vt., B-6; 2 vols., Dec. 6, 1905-May 19, bsmt. vt., B-13; 3 vols., May 20, 1924-, clk. off.

182. EXECUTOR'S BOND, OATH & LETTERS, 1855-. 4 vols. (1-4). 1844-54 in Letters of Administration, entry 188iii.

Record of bonds posted by, oaths taken by and letters issued to executors of wills, showing dates of bond, oath and letters, names of decedent, executor and sureties, and amount and conditions of bond. Also contains: Executors Bond to Sell Real Estate, Apr. 12, 1893-, entry 187. Arr. chron. by dates of bonds. Indexed alph. by names of decedents; for separate index, 1871-98, see entry 24. Hdw. 600 pp. 18 x 12 x 3. 1 vol., 1855-Nov. 20, 1879, bsmt. vt., B-13; 1 vol., Nov. 21, 1879-Oct. 16, 1917, bsmt. vt., B-6; 2 vols., Oct. 17, 1917-, clk. off.

183. GUARDIAN'S BOND, OATH & LETTERS, 1853-. 7 vols. (1-7).

Record of bonds posted by, oaths taken by and letters issued to guardians, showing dates of bond, oath and letters, names of guardianship, guardian, wards and sureties, guardian's oath, and amount and conditions of bond. Arr. chron. by dates of bonds. 1853-May 1869, indexed alph. by names of guardians; June 1869-, indexed alph. by names of wards; for

separate index, 1871-98, see entry 24. Hdw. 588 pp. 18 x 12 x 3. 3 vols., 1853-Aug. 22, 1888, bsmt. vt., B-6; 3 vols., Aug. 23, 1888-Jan. 23, 1928, bsmt. vt., B-13; 1 vol., Jan. 25, 1928-, clk. off.

184. COMMISSIONER'S BOND TO SELL REAL ESTATE, 1889-. 1 vol. (1).

Record of bonds posted by probate commissioners appointed to sell real estate, showing date, amount and conditions of bond, and names of estate, commissioner and sureties. Arr. chron. by dates of bonds. Indexed alph. by names of commissioners; for separate index, 1889-98, see entry 24. Hdw. 588 pp. 18 x 12 x 3. Clk. off.

185. ADMINISTRATOR'S BOND TO SELL REAL ESTATE, May 27, 1896-. 1 vol. (2). 1859-May 26, 1896 in Administrator's, Ex[ecutor]'s & Guardian's Bond & C To Sell Real Estate, entry 187.

Record of administrators bonds to sell real estate, showing date, amount and conditions of bond, and names of estate, administrator and sureties. Arr. chron. by dates of bonds. Indexed alph. by names of estates; for separate index, May 27, 1896-98, see entry 24. Hdw. 500 pp. 18 x 12 x 3. Clk. off.

186. GUARDIAN'S BOND TO SELL REAL ESTATE, Apr. 19, 1882-. 1 vol. (1). 1859-Apr. 18, 1882 in Administrator's, Ex[ecutor]'s & Guardian's Bond & C To Sell Real Estate, entry 187.

Record of guardians' bonds to sell real estate, showing date, amount and conditions of bond, and names of guardianship, wards, guardian and sureties. Arr. chron. by dates of bonds. Indexed alph. by names of wards; for separate index, Apr. 19, 1882-98, see entry 24. Hdw. 600 pp. 18 x 12 x 3. Clk. off.

187. ADMINISTRATOR'S, EX[ECUTOR]'S & GUARDIAN'S BOND & C TO SELL REAL ESTATE, 1859-May 26, 1896. 1 vol. Executors' bonds to sell real estate, Apr. 12, 1893- in Executor's Bond, Oath & Letters, entry 182.

Record of bonds to sell real estate posted by administrators, executors and guardians, showing date, amount and conditions of bond, and names of principal, sureties and estate or guardianship. This is a combination of three records, two of which were later kept separately: Administrator's Bond to Sell Real Estate, entry 185; Guardian's Bond to Sell Real Estate, 1859-Apr. 18, 1882, entry 186. Arr. chron. by dates of bonds. Indexed alph. by names of principals; for separate index of administrators' bonds to sell real estate, 1871-96, executors' bonds to sell real estate, 1871-Apr. 11, 1893 and guardians' bonds to sell real estate, 1871-Apr. 18, 1882, see entry 24. Hdw. 600 pp. 18 x 12 x 3. Bsmt. vt., B-6.

188. LETTERS OF ADMINISTRATION, 1844-Apr. 14, 1855. 1 vol. (A).

Contains: Administrator's Bond Record, 1844-52, entry 181; Executor's Bond, Oath & Letters, 1844-54, entry 182; Will Record, entry 190. Arr. chron. by dates of recording. Indexed alph. by names of decedents. Hdw. 580 pp. 18 x 12 x 3. Clk. off.

189. PROBATE RECORD BOOK, 1822-30. 1 vol. (1).

Record of issuance of letters of administration, showing dates of decedent's death and letters of administration, and names of decedent, administrator and witnesses. Also contains: Will Record, entry 190; Inventory Record, 1824-30, entry 194; Sale Bill Record, 1823-30, entry 195. Arr. chron. by dates of letters. Indexed alph. by names of decedents and administrators. Hdw. 250 pp. 13 x 9 x 1½. Clk. off.

WILLS AND PARTITIONS (see also entries 76, 77)

190. WILL RECORD, 1858-. 12 vols. (1-12). 1822-30 in Probate Record Book, entry 189; 1831-43, Apr. 15, 1855-57 in Complete Record, Probate, entry 200; 1844-Apr. 14, 1855 in Letters of Administration, entry 188.

Transcripts of wills filed for probate, showing dates of will, affidavit of testator's death, filing, and recording, names of testator, executor, legatees and witnesses, and conditions of will. Arr. chron. by dates of recording. Indexed alph. by names of testators. 1858-Oct. 7, 1915, hdw.; Oct. 8, 1915-, typed. 588 pp. 18 x 13 x 3. Clk. off.

191. WILL RECORD, TRANSCRIPT, 1858-Oct. 1883. 1 vol. (1). Transcribed 1898.

Transcript of volume 1 of Will Record, entry 190. Arr. chron. by dates of recording. Indexed alph. by names of testators. Hdw. 300 pp. 13 x 10 x 2. Clk. off.

192. WILLS, 1871-. 5 f. b.

Original wills filed for probate, showing dates of will and filing, names of testator, executor, heirs and witnesses, conditions of will, and volume and page reference to Will Record, entry 190. Arr. chron. by dates of filing. No index. Hdw. and typed. 11 x 5 x 14. 3 f. b., 1871-1925, bsmt. vt., B-13; 2 f. b., 1926-, clk. off.

193. PARTITION RECORD, COM[mon] PLEAS, 1853-69. 1 vol. (1).

Record of court orders on petitions for partition of real estate, showing dates of petition, trial, and court order, report of appraiser or commissioner, names of estate, petitioner,

defendant, appraiser or commissioner and witnesses, location and description of property, cause number, amounts of fees and costs, and court order. Arr. num. by cause nos. Indexed alph. by names of petitioners. Hdw. 500 pp. 18 x 12 x 3. Clk. off.

INVENTORIES AND SALE BILLS

194. INVENTORY RECORD, 1852-. 32 vols. (1-32). 1824-30 in Probate Record Book, entry 189; 1831-51 in Probate Order Book, entry 197.

Record of inventories and appraisements of personal property in estate causes of common pleas and circuit courts, showing dates of inventory, appraisement and filing, names of decedent, administrator or executor and appraisers, cause number, location, description and valuation of property, and amount and nature of indebtedness. Arr. chron. by dates of filing. Indexed alph. by names of decedents. Hdw. 500 pp. 18 x 12 x 3. 18 vols., 1852-Dec. 28, 1911, May 22, 1913-May 10, 1915, bsmt. vt., B-6; 3 vols., Dec. 29, 1911-May 21, 1913, May 11, 1915-June 19, 1928, bsmt. vt., B-13; 6 vols., June 20, 1928-, clk. off.

195. SALE BILL RECORD, 1852-. 12 vols. (1, 2, 4-13). Title varies: Record of Sale Bills, Probate, 1852-75, 2 vols. 1823-30 in Probate Record Book, entry 189; 1831-51 in Probate Order Book, entry 197.

Record of sales of personal property in estate causes of common pleas and circuit courts, showing date, place and terms of sale, names of estate, administrator or executor, purchaser and sale clerk, description and inventory number of article sold, amount of sale, and description and value of unsold property. Arr. chron. by dates of sales. Indexed alph. by names of estates. Hdw. 588 pp. 18 x 12 x 2. 9 vols., 1852-Nov. 12, 1927, bsmt. vt., B-6; 3 vols., Nov. 13, 1927-, clk. off.

MINUTES

196. PROBATE COURT DOCKET, 1830-50, Oct. 1881-. 12 vols. (one vol. not labeled, A, B, 1-3 and one vol. not labeled); 1 box. Mar. 1874-May 1881 in Court Docket, entry 132.

Record of actions and proceedings in estate and guardianship causes, showing cause number, dates of filing and action, names of estate, guardianship, administrator, executor or guardian, wards and attorneys, nature of action, and court proceedings. Arr. num. by cause nos. 1830-50, Oct. 1881-1928, no index; 1929-, indexed alph. by names of estates and

guardianships. Hdw. Vols., 400 pp. 18 x 12 x 3; box, 11 x 15 x 25. 11 vols., 1830-50, Oct. 1831-1910, bsmt. vt., B-6; 1 box, 1907-25, bsmt. vt., B-13; 1 vol., 1916-, clk. off.

ORDERS

197. PROBATE ORDER BOOK, 1822-. 112 vols. (A-E, 1-23, 23½, 24-106).

Record of jury and court verdicts, judgments and court orders in estate and guardianship causes, showing court term, dates of filing and action, cause number, names of estates or guardianship, administrator, executor or guardian and wards, attorneys and witnesses, nature of action, and verdict, judgment and order of the court. Also contains: Inventory Record, 1831-51, entry 194; Sale Bill Record, 1831-51, entry 195. Arr. chron. by court terms. Indexed alph. by names of estates and guardianships. 1822-April 20, 1900, hdw.; Apr. 21, 1900-, typed. 500 pp. 18 x 12 x 3. Clk. off.

198. PROBATE ORDER BOOK, TRANSCRIPT, Nov. 1842-Mar. 1847. 1 vol. (C).

Transcript of volume C of Probate Order Book, entry 197. Arr. chron. by court terms. Indexed alph. by names of estates and guardianships. Hdw. 500 pp. 18 x 12 x 3. Clk. off.

199. INHERITANCE AND TRANSFER TAX RECORD, 1913-May 23, 1916. 1 vol. Discontinued.

Record of inheritance and transfer tax assessed in estate and trusteeship causes, showing cause number, name, address and date of death of decedent, date of letters of administration, names and addresses of administrator, executor or trustee and attorney, names, addresses and relationship of heirs, devisees or legatees, estimated and appraised valuations of real and personal property, gross and net values of property, amounts of legacy, exemption, deductions and appraisers' fees and expense, rate, amount and date of payment of tax, and description of property transferred. Arr. num. by cause nos. Indexed alph. by names of decedents. Hdw. 250 pp. 18 x 21 x 3. Bsmt. vt., B-6.

For other inheritance tax records, see entries 97, 252.

COMPLETE TRANSCRIPTS

200. COMPLETE RECORD, PROBATE, 1831-Aug. 1894. 26 vols. (A-H, 1-18).

Complete record of actions and proceedings in estate and guardianship causes, showing court term, dates of filing and action, names of estate, guardian, administrator, executor,

heirs, wards and attorneys, nature of action, cause number, and proceedings of court. Also contains: Will Record, 1831-43, Apr. 15, 1855-67, entry 190. Arr. chron. by court terms. Indexed alph. by names of estates and guardians. Hdw. 500 pp. 18 x 12 x 3. Clk. off.

201. COMPLETE RECORD, PROBATE, TRANSCRIPT, Nov. 1845-Nov. 1847, Aug. 1848-Aug. 1849. 2 vols. (D, F). Transcripts of volumes D and F of Complete Record, Probate, entry 200. Arr. chron. by court terms. Indexed alph. by names of estates and guardians. Hdw. 300 pp. 18 x 12 x 2. Clk. off.

FEE AND CASH RECORDS

202. FEE BOOK, PROBATE, 1838-Feb. 2, 1928. 15 vols. (B, C, 1, 3-14). Estate fees, June 1918- in Estate Entry, Claim and Allowance Docket and Fee Book, entry 170; guardianship fees, Apr. 1918- in Guardian's Docket and Fee Book, entry 172. Record of fees assessed in estate and guardianship causes, showing date of filing, names of estate, guardianship, administrator or executor, guardian and wards, nature and amount of fees, and receipt of satisfaction. Arr. chron. by dates of filing. 1838-52, indexed alph. by names of estates and guardians; 1853-Feb. 2, 1928, indexed alph. by names of estates and wards. Hdw. 400 pp. 18 x 12 x 3. 13 vols., 1838-Mar. 1906, 1911-Sept. 1915, bsmt. vt., B-6; 2 vols., Apr. 1906-10, Oct. 1915-Feb. 2, 1928, clk. off.

203. CLERK'S RECEIPTS, GUARDIANSHIPS [AND TRUSTEESHIPS], 1926-. 2 vols. Stubs of clerk's receipts for costs in guardianship and trusteeship causes, including:

- i. Guardianship receipts, showing date and amount of receipt, title of guardianship, and volume and page reference to Guardian's Docket and Fee Book, entry 172.
- ii. Trusteeship receipts, 1932-, showing date and amount of receipt, title of trusteeship, and volume and page reference to Trust Entry Docket and Fee Book, entry 174.

Arr. chron. by dates of receipts. No index. Hdw. 200 pp. 18 x 12 x 1. Clk. off.

204. CLERK'S RECEIPTS, ADMINISTRATOR, 1932-. 2 vols. Stubs of clerk's receipts for costs in estate causes, showing date and amount of receipt, name of estate, and volume and

page reference to Estate Entry, Claim and Allowance Docket and Fee Book, entry 170. Arr. chron. by dates of receipts. No index. Hdw. 200 pp. 18 x 12 x 1. Clk. off.

JUVENILE CAUSES

205. JUVENILE CAUSES, 1907-. 3 f. b.

Original documents filed in juvenile causes, including affidavits, warrants, subpoenas and verdicts, showing dates of document and filing, cause number, name of complainant, defendant, witnesses and attorneys, nature of offense, and verdict. Arr. num. by cause nos. No index. Hdw. and typed. 11 x 5 x 14. 2 f. b., 1907-26, bsmt. vt., B-13; 1 f. b., 1927-, clk. off.

206. RILEY HOSPITAL, 1924-. 9 f. b. (dated).

Original documents pertaining to admission of children to Riley Hospital for treatment, including petitions, physicians and welfare department reports, and orders for admission, showing dates of document and filing, name, age, sex, nature of affliction and case history of child, names and addresses of parents and physician, recommendation of welfare department, and court order of admission. Arr. chron. by dates of filing. No index. Hdw. and typed. 11 x 5 x 14. 3 f. b., 1924-34, bsmt. vt., B-13; 6 f. b., 1935-, clk. off.

207. JUVENILE AFFIDAVIT RECORD, 1912-Nov. 13, 1915. 1 vol. (1). Discontinued.

Record of affidavits filed in juvenile causes, showing date of affidavit, names of complainant, defendant and witnesses, nature of charge, and cause number. Arr. num. by cause nos. Indexed alph. by names of defendants. Typed. 360 pp. 16 x 10 x 2. Bsmt. vt., B-6.

208. JUVENILE COURT DOCKET, 1907-. 2 vols. (1, one vol. not labeled).

Record of actions and proceedings in juvenile causes, showing dates of filing and action, cause number, names of defendant, attorneys and witnesses, and proceedings of court. Arr. num. by cause nos. Indexed alph. by names of defendants. Hdw. and typed. 275 pp. 18 x 12 x 2. Clk. off.

209. ORDER BOOK, JUVENILE, 1907-. 2 vols. (1, 2).

Record of jury and court verdicts, judgments and orders of the court in juvenile causes, showing date of action, term of court, cause number, names of complainant, defendant, attorney and witnesses, nature of action, and verdict, judgment and order of the court. Arr. chron. by court terms. Indexed alph. by names of defendants. Typed. 300 pp. 13 x 12 x 2. Clk. off.

210. HISTORY RECORD, SHELBY JUVENILE COURT, 1908. 1 vol. (1). Record of probation officer's reports on pending juvenile causes transferred to juvenile court for trial, showing cause number, date of transfer, name, age, sex, address and health condition of child, names, addresses, occupations, nationalities, incomes and religions of parents, name and address of examining physician, case history of child, and recommendations made. Arr. num. by cause nos. Indexed alph. by names of children. Hdw. 348 pp. 18'x 12 x 2. Bsmt. vt., B-6.

MISCELLANEOUS COURT RECORDS

CHANGE OF VENUE (see also entries 298, 299)

211. CHANGE OF VENUE RECORD, 1912-. 10 vols. (1-3, 3-9). Record of causes venued from adjoining counties, showing dates of filing and action, cause number, names of plaintiff, defendant, attorneys and adjoining county, itemized statement of expense of trial, and total cost. Arr. chron. by dates of filing. Indexed alph. by names of plaintiffs. Hdw. 400 pp. 12 x 10 x 2. 5 vols., 1912-Dec. 28, 1927, bsmt. vt., B-13; 5 vols., Dec. 29, 1927-, clk. off.

SUPREME AND APPELLATE COURT OPINIONS

212. OPINIONS, SUPREME & APPELLATE, 1918-. 3 f. b. Opinions handed down by appellate and supreme courts in causes appealed from circuit court, showing dates of opinion and filing, cause number, names of plaintiff, defendant, appellant and higher court, nature of action, and opinion of higher court. Arr. chron. by dates of filing. No index. Hdw. and typed. 2 f. b., 5 x 4 x 11; 1 f. b., 11 x 5 x 14. 2 f. b., 1918-36, bsmt. vt., B-13; 1 f. b., 1937-, clk. off.

ADULT HOSPITALIZATION

213. INDIANA UNIVERSITY MEDICAL CENTER, ADULT HOSPITAL, 1939-. 1 f. b.

Original documents pertaining to admission of adults to Indiana University Medical Center, including petitions, financial statements, physicians' reports and transportation expense authorizations, showing dates of document and filing, name, age, address, date and place of birth, sex, race, occupation, marital status and financial condition of patient, nature of ailment, physician's reports to county and hospital, transportation expense authorization, and cause number. Arr. num. by cause nos. No index. Hdw. and typed. 11 x 5 x 14. Clk. off.

WARRANTS AND SUMMONSES

214. BENCH WARRANTS, 1925-June 1930, Nov. 13, 1933-.
4 vols.

Stubs of bench warrants issued, showing court term, date of warrant, cause number, and name of defendant. Arr. chron. by dates of warrants. No index. Hdw. 200 pp. 7 x 14 x 1. 2 vols., 1925-June 1930, Nov. 13, 1933-Nov. 16, 1936, bsmt. vt., B-13; 2 vols., Sept. 14, 1935-, clk. off.

215. SUMMONS, 1934-Feb. 17, 1936, May 1938-. 4 vols.
Stubs of summons issued, showing court term, date of summons, cause number, and names of plaintiff, defendant, plaintiff's attorney and sheriff. Arr. chron. by dates of summons. No index. Hdw. 300 pp. 8 x 4 x 2. 2 vols., 1934-Feb. 17, 1936, bsmt. vt., B-13; 2 vols., May 1938-, clk. off.

COURT ALLOWANCES

216. WITNESS CLAIM REGISTER, 1909-25. 3 vols. (one vol. not labeled, 5, one vol. not labeled).
Register of claims filed for witness fees, showing court term, dates of service and filing, names of plaintiff, defendant and witness, number of days served and miles traveled, amounts of claim and allowance, and cause number. Arr. num. by cause nos. No index. Hdw. 300 pp. 16 x 12 x 2. Bsmt. vt., B-13.
217. COURT ALLOWANCES, 1927-. 2 f. b. Title varies:
Court Bills Allowed, 1927-34, 1 f. b.
Orders of allowance for services rendered and merchandise furnished the court, showing dates of claim, order and filing, name and address of claimant, amounts of claim and allowance, and itemized statement of claim. Arr. chron. by dates of filing. No index. Hdw. and typed. 1 f. b., 5 x 4 x 11; 1 f. b., 11 x 5 x 14. 1 f. b., 1927-34, bsmt. vt., B-13; 1 f. b., 1935-, clk. off.

VI. SHERIFF

LEGAL STATUS

The office of sheriff exists under the mandatory provisions of the Constitution of 1851, and has existed in Shelby County since its organization in 1822. The Constitution of 1816 created the office in every county then or thereafter organized. The sheriff is elected for a 2-year term by the voters of the county. No person is eligible to hold the

office more than 4 years in any 6-year period.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ The sheriff must be an elector of the county at the time of his election, must have been an inhabitant thereof during the preceding year,⁴ must reside within the county after his election, must not hold any other lucrative office,⁵ and must not practice law.⁶ He must post bond in an amount between \$5,000 and \$15,000, to be approved by the board of commissioners and filed with the clerk of the circuit court.⁷ The sheriff must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.⁸

The sheriff receives a regular salary of \$2,080 per year.⁹ He is permitted to retain, as compensation for himself, the fees charged by him for execution of process issued by courts outside of the county. If the sheriff furnishes and maintains the vehicles used in the discharge of his official duties, he is entitled to an allowance of \$400 per year to cover the cost of such maintenance, or is entitled, in lieu thereof, to a mileage allowance at the rate of 6 cents per mile for each mile necessarily traveled in serving process, transporting persons to penal and benevolent institutions, and going for and returning fugitives. If the county owns and maintains the vehicles used by him, he is not entitled to an

¹ Const. 1816, art. 4, sec. 25. Const. 1851, art. 6, sec. 2. Acts 1816-17, ch. 13, secs. 5, 6. Acts 1817-18 (general), ch. 15, sec. 13. Acts 1821-22, ch. 31, secs. 1, 2. 2 Rev. Stat. 1852; Burns 49-2801; Baldwin 5493. *Gemmer v. State ex rel. Stephens* (1904), 163 Ind. 150, 71 N. E. 478.

² Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. Acts 1816-17, ch. 13, secs. 1, 8. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3. Acts 1816-17, ch. 13, sec. 5.

⁴ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁵ Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6.

⁶ Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1905; Burns 10-3102; Baldwin 2636. *McCracken v. State* (1867), 27 Ind. 491.

⁷ Acts 1816-17, ch. 13, secs. 2-4, 8. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852, Acts 1937; Burns, 1939 suppl., 49-2801; Baldwin, 1937 suppl., 5493.

⁸ Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101, 49-102, 49-104; Baldwin 13054, 13055, 13057. Acts 1937; Burns, 1939 suppl., 49-2801; Baldwin, 1937 suppl., 5493. *State ex rel. Chapman v. Lines* (1853), 4 Ind. 351.

⁹ Acts 1816-17, ch. 19, sec. 16. Acts 1817-18 (general), ch. 42, sec. 23. Acts 1933; Burns 49-1004, Baldwin 7534.

allowance for mileage or for maintenance of the vehicles.¹⁰ For each meal served to the prisoners in his charge, the sheriff receives an allowance not exceeding 20 cents, as determined annually by the state examiner.¹¹

For sufficient legal grounds the sheriff may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹² If the sheriff is convicted of a felony, or of permitting the lynching of any prisoner in his custody, the judgment of conviction must declare his office vacant.¹³

Any vacancy in the office of sheriff is filled through appointment by the board of commissioners. The coroner performs the duties of sheriff until a new appointment is made. The appointee must take oath and post bond, as was required of his predecessor; and he holds office for the unexpired term and until his successor is elected and qualified.¹⁴

The sheriff may appoint deputies and assistants under authority from the board of commissioners. One deputy may be appointed without such authorization. The county council fixes the salaries of the deputies and assistants, which must not be less than \$75 nor more than \$200 per month.¹⁵ The sheriff may require any deputy to give bond.¹⁶ The deputies must take the oath required of the sheriff, may perform all the official duties of the sheriff, and are subject to the

¹⁰ Acts 1933; Burns 49-1005; Baldwin 7535. Acts 1933, 1937; Burns, 1939 suppl., 49-1008; Baldwin, 1937 suppl., 7538. *McFarlan v. State* (1897), 149 Ind. 149; *Board of Comrs. v. Baker* (1939), -Ind.-, 19 N. E. (2d) 250.

¹¹ Acts 1817-18 (general), ch. 61, sec. 6. Acts 1935; Burns, 1939 suppl., 49-1323; Baldwin, 1935 suppl., 13455-1.

¹² Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹³ Acts 1905; Burns 10-3369, 10-3310; Baldwin 2530, 2531. Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁴ Const. 1851, art. 6, sec. 9. Acts 1816-17, ch. 13, secs. 7, 9. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-403, 49-409; Baldwin 13104, 13106, 13107. 2 Rev. Stat. 1852; Burns 49-2902; Baldwin 5437. *Akers v. State ex rel. Kent* (1856), 8 Ind. 484. *State ex rel. Culbert v. Linkhauer* (1895), 142 Ind. 94, 41 N. E. 325. Interview of August 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹⁵ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1921; Burns 49-504; Baldwin 13111. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532. *Opinions of the Attorney General of Indiana*, 1934, p. 256; 1937, p. 324.

¹⁶ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

same regulations and penalties.¹⁷ The sheriff may remove such deputies and assistants at any time, and is responsible for their official acts.¹⁸

FUNCTIONS AND RECORDS

The sheriff is a conservator of the peace within the county. He is required to arrest without process all persons who within his view commit any criminal offense under the state laws, and detain them in custody during investigation of the cause of the arrest; suppress all breaches of the peace, having authority to call to his aid the power of the county; pursue and commit to jail all felons; maintain the jail and take care of the prisoners confined therein (persons held for investigation, defendants awaiting trial, and convicts); execute all process, orders, and warrants directed to him by legal authority; and to preserve and maintain order in all courts in the county, except those of justices of the peace.¹⁹

The sheriff makes arrests on warrants issued on indictments and affidavits and detains the arrested persons in jail or releases them on bail as provided by law; serves summonses in cases of misdemeanors;²⁰ deputizes bystanders to aid him in protecting persons from being lynched;²¹ calls the petit jury for criminal cases as prescribed by law or directed by the court;²² transports persons committed to the charitable, correctional, and penal institutions operated by the state;²³

¹⁷ Acts 1818-19, ch. 17, sec. 3. 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

¹⁸ 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532. *Boaz v. Tate* (1873), 43 Ind. 60.

¹⁹ Acts 1816-17, ch. 2, secs. 7, 10; ch. 4, secs. 6, 7, 10, 31; ch. 5, sec. 51; ch. 6, sec. 1; ch. 10, sec. 15; ch. 24, sec. 3; ch. 32, sec. 9. Acts 1817-18 (general), ch. 20, sec. 1; ch. 32, sec. 6; ch. 48, secs. 3, 4; ch. 62, secs. 2-4; ch. 63, sec. 2; ch. 66, sec. 1. Acts 1817-18 (special), ch. 2, sec. 7. Acts 1824, ch. 100, sec. 10. Acts 1881 (Spec. Sess.); Burns 2-802, 3-522, 3-1910 to 3-1913, 3-2705; Baldwin 63, 791, 1026 to 1029, 1202. Acts 1905; Burns 10-3707; Baldwin 2654. Acts 1903; Burns 35-411; Baldwin 6541. 2 Rev. Stat. 1852; Burns 49-2802, 49-2803; Baldwin 5494, 5495. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700. Acts 1919; Burns 64-1303; Baldwin 15707.

²⁰ Acts 1816-17, ch. 2, sec. 7; ch. 4, secs. 7, 10. Acts 1817-18 (general), ch. 20, sec. 1; ch. 54, sec. 3; ch. 64, sec. 5; ch. 78, sec. 3. Acts 1818-19, ch. 1, sec. 6; ch. 7, sec. 2; ch. 10, secs. 1, 2. Acts 1819-20, ch. 25. Acts 1905, 1937; Burns, 1939 suppl., 9-1001; Baldwin, 1937 suppl., 2134.

²¹ Acts 1905; Burns 10-3309, 10-3310; Baldwin 2530, 2531. *State ex rel. Maxwell v. Dudley* (1903), 161 Ind. 431, 68 N. E. 899.

²² Rev. Laws 1824, ch. 56, sec. 3. Acts 1905; Burns 9-1301; Baldwin 2246.

²³ Acts 1905; Burns 9-2232, 22-2013; Baldwin 2339, 4206. Acts 1927; Burns 22-1213; Baldwin 4305. Acts 1911; Burns 22-1716; Baldwin 4230. Acts 1919; Burns 22-1509; Baldwin 4264.

seizes and sells property as directed by the circuit court, and executes conveyances to the purchasers;²⁴ executes the process of the Supreme Court of Indiana and the Appellate Court of Indiana, when officially directed to do so;²⁵ attends sessions of the board of commissioners,²⁶ county council,²⁷ and board of review,²⁸ and executes the orders of those boards; issues licenses for the retail sale of firearms;²⁹ makes investigations of poultry dealers, and receives weekly reports from them;³⁰ and gives public notice of the holding of elections. In the early days of the county he performed various duties concerning elections.³¹ Before 1824 he served as county tax collector.³²

The sheriff charges the fees provided by law for the services he performs and pays the same over to the county treasurer, except as otherwise stated herein.³³ Fines imposed by the circuit court are collected by him and paid over to the county treasurer.³⁴

²⁴ Acts 1817-18 (general), ch. 61, secs. 2, 3. Acts 1819-20, ch. 56, secs. 1-3; ch. 72, secs. 10, 11. 2 Rev. Stat. 1852, ch. 8, sec. 472. Acts 1881 (Spec. Sess.); Burns 2-3601, 2-4101, 3-1819; Baldwin 574, 619, 1014. Acts 1931; Burns 3-1806; Baldwin 1008.

²⁵ Acts 1816-17, ch. 1, secs. 1, 9, 10. Rev. Laws 1824, ch. 100, sec. 13. Acts 1891; Burns 4-230; Baldwin 1378. 2 Rev. Stat. 1852; Burns 49-2203; Baldwin 1339. 2 Rev. Stat. 1852, Acts 1889; Burns 49-2204; Baldwin 1940.

²⁶ Acts 1816-17, ch. 15, sec. 6. Rev. Laws 1843, ch. 7, sec. 5. 1 Rev. Stat. 1852; Burns 26-611; Baldwin 5226.

²⁷ Acts 1899; Burns 26-510; Baldwin 5374.

²⁸ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

²⁹ Acts 1935, 1937; Burns, 1939 suppl., 10-4742; Baldwin, 1937 suppl., 2569-9.

Forms for these licenses are prescribed by the superintendent of the state police. *Ibid.*

³⁰ Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-803(b); Baldwin 10487.

³¹ Acts 1816-17, ch. 9, secs. 1, 15, 16, 19, 22; ch. 12, sec. 5; ch. 14, secs. 2, 6, 8. Acts 1817-18 (special), ch. 3, secs. 1-3. Acts 1817-18 (general), ch. 15, sec. 1; ch. 17, secs. 1, 8; ch. 49, sec. 5; ch. 54, sec. 3; ch. 57, sec. 9; ch. 61, secs. 1-6. Rev. Laws 1824, ch. 37, secs. 1, 2. 1 Rev. Stat. 1852, ch. 31, sec. 2. Acts 1889, ch. 87, sec. 15. Acts 1891, ch. 94, sec. 2. Acts 1881 (Spec. Sess.); Burns 29-702, 29-1703; Baldwin 7022, 7243. *Demaree v. Johnson* (1897), 150 Ind. 419, 49 N. E. 1062.

³² See the essay entitled "Treasurer."

³³ Acts 1933; Burns 49-1005; Baldwin 7535. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. Acts 1932 (Spec. Sess.); Burns 49-1312, 49-1315, 49-1316; Baldwin 7571, 7574. Acts 1919, 1921; Burns 49-1318; Baldwin 13588-1.

³⁴ Acts 1816-17, ch. 17, sec. 6; ch. 27, sec. 1. Acts 1817-18 (general), ch. 44, sec. 6; ch. 72, secs. 2, 3; ch. 79, sec. 1. Acts 1817-18 (special), ch. 4, sec. 1. Acts 1905, 1927; Burns 9-2226 to 9-2223; Baldwin 2332, 2334, 2335.

If on account of death, sickness, or other casualty the judge of the circuit court fails for 3 consecutive days to attend court during termtime, the auditor, sheriff, and clerk of the circuit court, acting together, may appoint a temporary judge to serve until the return of the regular judge or until his successor is named.³⁵

Whenever the sheriff is unable to attend to his duties, the coroner performs them;³⁶ and if both the sheriff and coroner are unable to act, it is then the duty of the circuit court to appoint an elisor who discharges the sheriff's duties until the disability of the sheriff or coroner is removed.³⁷

The sheriff keeps a cashbook, a fee book,³⁸ a jail record,³⁹ a poultry record,⁴⁰ and a record of the service of process.⁴¹ He makes an annual written report, under oath, to the circuit court showing all executions and other process in his hands, what levies he has made, the amount of money collected on each execution, and when service thereof was made, which report is to be entered on the order book of the circuit court.⁴²

SERVICE ON WRITS

218. SHERIFF DOCKET, 1866-. 22 vols. (ten vols. not labeled, 7-10, 1-8).

Record of service on writs in civil and criminal causes, showing dates of writ, service and return, names of plaintiff, defendant and witnesses, cause number, kind of writ, number of days served by witnesses, and amounts of fees and costs. Arr. num. by cause nos. Indexed alph. by names of plaintiffs. Hdw. 300 pp. 18 x 12 x 3. 16 vols., 1866-Aug. 1924, bsmt. vt., B-6; 6 vols., Sept. 1924-, sher. off.

³⁵ Acts 1881 (Spec. Sess.); Burns 4-3103; Baldwin 1261.

³⁶ Acts 1816-17, ch. 13, sec. 9. 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901, 49-2902; Baldwin 5436, 5437.

³⁷ 2 Rev. Stat. 1852; Burns 4-322; Baldwin 1411.

³⁸ Acts 1891, ch. 194, secs. 124, 125. Acts 1895; Burns 49-1401; Baldwin 7576. Acts 1885, 1903, 1913; Burns 49-1402; Baldwin 7577.

³⁹ Rev. Laws 1838, ch. 83, sec. 5. Acts 1909; Burns 13-1007; Baldwin 13459.

⁴⁰ Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-803; Baldwin 10487.

⁴¹ Record required by the state board of accounts. Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

⁴² Acts 1905; Burns 9-1034; Baldwin 2179. 2 Rev. Stat. 1852; Burns 49-2807; Baldwin 5502.

219. SHERIFF'S FOREIGN DOCKET, 1868-. 5 vols. (1-5).

Title varies: Sheriffs Docket, 1868-72, 1 vol.

Record of services on writs issued by courts in foreign counties, showing dates of writ, service and return, cause number, nature of writ, names of plaintiff, defendant, attorneys and witnesses, mileage, and amount of fees. 1868-Oct. 1872, arr. by counties, thereunder chron. by dates of writs; Nov. 1872-Nov. 16, 1882, arr. chron. by dates of writs; Nov. 17, 1882-, arr. num. by cause nos. 1868-Oct. 1872, indexed alph. by names of counties, thereunder by names of plaintiffs; Nov. 1872-, indexed alph. by names of plaintiffs and defendants. Hdw. 300 pp. 18 x 12 x 3. 4 vols., 1868-June 19, 1926, bsmt. vt., B-6; 1 vol., Sept. 11, 1926-, sher. off.

220. SHERIFF DOCKET, COMMON PLEAS COURT, 1865-Nov. 1876.

3 vols. (1-3).

Record of service on writs in causes of common pleas court, 1865-73, circuit court, Mar. 1873-Nov. 1876, showing dates of issue, services and return, names of plaintiff, defendant and witnesses, mileage, nature of writ, amount of fees, and days served. Arr. num. by cause nos. No index. Hdw. 350 pp. 18 x 18 x 3. Bsmt. vt., B-6.

221. JUROR REGISTER, 1880-90, 1898-. 6 vols.

Record of persons impaneled to serve on juries, showing date and number of days served, names of jurors, cause number, cause of action, court term, mileage, service charge, and total amount paid for jury services. 1880-90, arr. alph. by names of jurors; 1898-, arr. by court terms. 1880, 1887-90, 1898-, no index; 1881-86, indexed alph. by names of jurors. Hdw. 300 pp. 18 x 12 x 3. 4 vols., 1880-90, 1898-July 21, 1920, bsmt. vt., B-6; 2 vols., Nov. 20, 1920-, sher. off.

EXECUTIONS ON JUDGMENTS

(See also entries 146-155)

222. SHERIFF'S EXECUTION DOCKET, 1868-. 9 vols. (1, 3, four vols. not labeled, 4-6).

Record of service on writs for execution of judgments, showing dates of writ, service and return, names of plaintiff, defendant and attorneys, cause number, kind of writ, amounts of judgment, interest and cost, and sheriff's return. Arr. num. by cause nos. Indexed alph. by names of plaintiffs and defendants. Hdw. 500 pp. 18 x 12 x 3. 7 vols., 1868-Sept. 13, 1915, bsmt. vt., B-6; 2 vols., Sept. 14, 1915-, sher. off.

223. SHERIFF EXECUTION DOCKET, COMMON PLEAS, 1868-Feb. 16, 1872. 1 vol. (1).

Record of services on writs for execution of judgments, showing dates of writ, service and return, names of plaintiff, defendant and judgment debtor, amounts of judgment, interest and cost, and sheriff's return. Arr. num. by cause nos. Indexed alph. by names of plaintiffs and defendants. Hdw. 400 pp. 18 x 12 x 3. Bsmt. vt., B-6.

224. RECORD RETURN ON ORDER OF SALE, PERSONAL, July 28, 1931-. 1 vol. Last entry Sept. 5, 1935.

Record of personal property sold to satisfy judgments, showing date of sale, names of property owner and purchaser, kind of property sold, location of sale, cause number, value of property, and amounts of sale and judgment. Arr. chron. by dates of sales. No index. Hdw. 350 pp. 18 x 12 x 3. Sher. off.

JAIL RECORDS

225. JAIL REGISTER, 1868-82, Nov. 16, 1896-June 23, 1909, July 1925-. 4 vols. Title varies: Sheriff's Record, Prisoners, 1868-82, 1 vol.

Register of persons committed to county jail, showing date and time of admittance and release, name, age, sex, color, residence and birthplace of prisoner, name of judge, cause of confinement, amount of bail, and number and costs of meals served. Arr. chron. by dates of admittance. No index. Hdw. 500 pp. 18 x 12 x 2. 2 vols., 1868-82, Nov. 16, 1896-June 23, 1909, C. C. bsmt. vt., B-6; 2 vols., 1925-, sher. off., county jail.

FIREARMS

226. [FIREARM LICENSES], 1925-Sept. 6, 1933, 1936-. 2 vols.

Record of applications to sell and dealers reports of sale of firearms, including:

- i. Applications for licenses to sell firearms, showing date of application, names and addresses of applicant and firm, and certification of sheriff. Arr. chron. by dates of applications.
- ii. Dealers' reports of sales and purchases of revolvers 1925-33, showing dates of sale, report and filing, name of dealer, name, address, age, birthplace and nationality of purchaser, make, model, calibre and

serial number of revolver, and report number. Arr. num. by report nos.

No index. Hdw. 100 pp. 14 x 9 x ½. 1 vol., 1925-Sept. 6, 1933, bsmt. vt., B-13; 1 vol., 1936-, sher. off.

FEE AND CASH RECORDS

227. SHERIFF'S CASH BOOK, 1878-89, 1911-. 4 vols. (two vols. not labeled, 1, 2). Title varies: Record of Sheriff Sales, 1878-89, 2 vols.

Record of receipts and disbursements by sheriff, showing date, amount and nature of receipt or disbursement, names of payer and payee, cause and receipt numbers, and total receipts and disbursements. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 300 pp. 18 x 12 x 3. 2 vols., 1878-89, bsmt. vt., B-6; 2 vols., 1911-, sher. off.

VII. CORONER

LEGAL STATUS

The office of coroner exists under the mandatory provisions of the Constitution of 1851, and has existed in Shelby County since its organization in 1822. The Constitution of 1816 created the office in every county then or thereafter organized. The coroner is elected for a two-year term by the voters of the county, without restrictions on re-election.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ The coroner must be an elector of the county at the time of his election, must have been an inhabitant thereof during the preceding year,⁴ must reside within the county after his election, and must not hold any other lucrative office.⁵ He must post bond in an amount between \$1,000 and \$5,000, to be approved by the board of commissioners and filed with

¹ Const. 1816, art. 4, sec. 25. Const. 1851, art. 6, sec. 2. Acts 1816-17, ch. 9, sec. 13; ch. 13, secs. 5, 6. Acts 1817-18 (general), ch. 15, sec. 13. Acts 1921-22, ch. 31, secs. 1, 2.

² Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. Acts 1816-17, ch. 13, secs. 1, 8. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3. Acts 1816-17, ch. 13, sec. 5.

⁴ Const. 1851, art. 15, sec. 4.

⁵ *Ibid.*, art. 2, sec. 9; art. 6, sec. 6.

the clerk of the circuit court.⁶ The coroner must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.⁷

The coroner receives, as compensation for himself, for impaneling and swearing witnesses, and making and returning inquisition for the viewing of each body, \$5 for the first day and \$2.50 for each additional day, plus a mileage allowance of 5 cents for each mile necessarily traveled in performing his duties. When he performs the duties required of the sheriff, the coroner receives the same compensation allowed to the sheriff. The coroner can employ a clerk, at a rate of pay not exceeding \$2 per day, to take down evidence of any inquisition.⁸

For sufficient legal grounds the coroner may be removed by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.⁹ If the coroner is convicted of a felony the judgment of conviction must declare his office vacant.¹⁰

Any vacancy in the office of coroner is filled through appointment by the board of commissioners. The appointee must take oath and post bond, as was required of his predecessor; and he holds office for the unexpired term and until his successor is elected and qualified.¹¹

There has been no major change in the office of coroner since the early days of the county, other than the abolition of the coroner's jury and the consequent transformation of the inquest from a court hearing in public to a formal non-judicial inquiry.¹²

⁶ Acts 1816-17, ch. 13, secs. 2-4, 8. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13063. Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852, Acts 1933; Burns 49-2801; Baldwin 5436.

⁷ Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101, 49-102, 49-104; Baldwin 13054, 13055, 13057.

⁸ Acts 1875 (Spec. Sess.); Burns 49-2917; Baldwin, 1935 suppl., 5452.

⁹ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-833, 49-836; Baldwin 13154 to 13166, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹⁰ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹¹ Const. 1851, art. 6, sec. 9. Acts 1816-17, ch. 13, sec. 7. Acts 1817-18 (general), ch. 17, sec. 8. Rev. Stat. 1843, ch. 7, sec. 74. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. Interview of August 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹² Acts 1816-17, ch. 6, sec. 1; ch. 10, sec. 15; ch. 32, sec. 9. Acts 1817-18 (general), ch.

FUNCTIONS AND RECORDS

The coroner is required to investigate deaths resulting from violence and other unnatural causes and inquire into the cause and manner of death.¹³ He holds inquests without a jury,¹⁴ and may subpoena witnesses and employ a physician or surgeon for post-mortem examinations.¹⁵ If the finding of the inquisition determines that the death was caused by felony, the coroner must order the arrest of any person whom he may charge with such felony,¹⁶ and may require witnesses to give recognizances for their appearance at the trial of the accused.¹⁷ The evidence and verdict at the inquest are in writing, and are filed in the office of the clerk of the circuit court, together with all recognizances taken¹⁸ and a written report giving a minute description of the deceased and valuables found with the body. These valuables are turned over to the county treasurer for the common school fund if no person legally authorized to receive them can be found.¹⁹ If the coroner is absent from the county or unable to attend an inquest, any justice of the peace of the county may hold the inquest.²⁰ The coroner makes a written report each month, to the state department of public safety, showing deaths of persons in his jurisdiction, during the preceding month, resulting from the operation of motor vehicles.²¹ He is a peace officer with the same powers as the sheriff,²² and acts as sheriff in event of absence, a vacancy in the

20, secs. 1-9; ch. 54, sec. 3; ch. 57, sec. 9; ch. 66, sec. 1. Acts 1819-20, ch. 25. Rev. Laws 1824, ch. 100, secs. 10-22. Rev. Stat. 1838, ch. 99 (1), secs. 1-23; ch. 99 (2), secs. 1-3. Rev. Stat. 1843, ch. 5, sec. 136; ch. 37, sec. 135; ch. 38, secs. 82-84; ch. 56, secs. 1-16. 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.); 1935; Burns, 1939 suppl., 49-2904a; Baldwin, 1935 suppl., 5439a. Acts 1879; Burns 49-2905; Baldwin 5444. *Stults v. Board of County Comrs.* 168 Ind. 539, 81 N.E. 471.

¹³ 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1939 suppl., 49-2904a; Baldwin, 1935 suppl., 5439a.

¹⁴ Acts 1879 (Spec. Sess.); Burns 49-2905; Baldwin 5444.

¹⁵ 2 Rev. Stat. 1852; Burns 49-2906; Baldwin 5440.

¹⁶ 2 Rev. Stat. 1852; Burns 49-2914; Baldwin 5448.

¹⁷ 2 Rev. Stat. 1852; Burns 49-2907; Baldwin 5441.

¹⁸ *Ibid.* 2 Rev. Stat. 1852, Acts 1879 (Spec. Sess.); Burns 49-2908; Baldwin 5442.

¹⁹ 2 Rev. Stat. 1852, Acts 1879 (Spec. Sess.); Burns 49-2909; Baldwin 5443. 2 Rev. Stat. 1852, Acts 1913; Burns 49-2913; Baldwin 5447.

²⁰ 2 Rev. Stat. 1852; Burns 49-2915; Baldwin 5449.

²¹ Acts 1939; Burns, 1939 suppl., 47-1915, 47-1919; Baldwin, 1939 suppl., 11189-54, 11189-58

²² 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

office, personal interest, or incapacity of that officer.²³ All judicial writs against the sheriff are executed by the coroner. This duty includes the arrest and detention of the sheriff by the coroner.²⁴

The coroner is not required to keep any records permanently.²⁵

228. CORONER'S RECORD, 1924-. 1 vol.

Record of inquests in sudden and violent deaths, showing date of inquest, date and place of death, name, age, sex and color of deceased, physical description of body, statements of witnesses, and coroner's verdict. Arr. chron. by dates of inquests. No index. Hdw. 450 pp. 18 x 12 x 3. Cor. off.

229. CORONER'S INQUEST, 1926-. 10 f. b.

Original documents in coroner's investigations of accidental, sudden or violent deaths, showing dates of death, inquest and filing, name, age, sex and color of decedent, names and statements of witnesses, autopsy record, coroner's verdict, and amounts of fees. Arr. chron. by dates of filing. No index. Hdw. 11 x 5 x 14. 8 f. b., 1926-35, bsmt. vt., B-13; 2 f. b., 1936-, clk. off.

VIII. PROSECUTING ATTORNEY

LEGAL STATUS

The office of prosecuting attorney exists under the mandatory provisions of the Constitution of 1851, and has existed in Shelby County since its organization in 1822. The prosecuting attorney is elected by the voters of the judicial circuit for a 2-year term without restrictions on re-election.¹ Shelby County alone constitutes the 16th judicial circuit.²

²³ 2 Rev. Stat. 1852; Burns 49-2902; Baldwin 5437.

²⁴ Acts 1816-17, ch. 13, sec. 9. Acts 1819-20, ch. 46, sec. 2. 2 Rev. Stat. 1852; Burns 49-2903; Baldwin 5438.

²⁵ Interview of August 30, 1939 with E. P. Brennan, state examiner.

¹ Const. 1851, art. 7, sec. 11. Acts 1851-52, ch. 8, sec. 1. 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456. Robinson v. Moser (1931), 203 Ind. 66, 179 N. E. 270. See footnotes 17, 18, herein.

² Acts 1913, ch. 2, sec. 1.

From the organization of Shelby County in 1822 until 1913 the county belonged to judicial circuits composed of more than one county. See the essay entitled "Circuit Court."

He is commissioned by the Governor of Indiana³ and holds office until his successor is elected and qualified.⁴ He must be an elector of the judicial circuit at the time of his election, must have been an inhabitant thereof during the preceding year,⁵ must reside within the judicial circuit after his election, and must not hold any other lucrative office.⁶ He must post bond in the amount of \$5,000 (to be approved by the circuit judge and filed with the clerk of the circuit court)⁷ and take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.⁸

The prosecuting attorney of Shelby County receives a regular salary of \$2,100 per year payable out of the county treasury. He is entitled to reimbursement for expenses incurred when attending conferences called by the attorney general. He is not permitted to retain, as compensation for himself, any fees collected by him.⁹

The prosecuting attorney may engage in the private practice of law, except as to matters which might conflict with his official duties.¹⁰

³ Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

⁴ Const. 1851, art. 15, sec. 3.

⁵ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁶ Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6. 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456. State *ex rel.* Howard v. Johnston (1885), 101 Ind. 223.

⁷ Rev. Laws 1824, ch. 24, sec. 11. Rev. Laws 1831, ch. 10, sec. 3. Rev. Stat. 1838, ch. 9 (first act), sec. 3. Rev. Stat. 1843, ch. 4, secs. 84-100. Acts 1851-52, ch. 8, sec. 2. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. 2 Rev. Stat. 1852; Burns 49-2502; Baldwin 5458.

⁸ Const. 1816, art. 11, sec. 1. Const. 1851, art. 15, sec. 4. Rev. Laws 1824, ch. 24, sec. 11. Rev. Laws 1831, ch. 10, sec. 3. Rev. Stat. 1838, ch. 9 (first act), sec. 3. Rev. Stat. 1843, ch. 4, secs. 77, 78, 83, 84, 92. Acts 1905; Burns 10-3703; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

⁹ Acts 1810, ch. 10, sec. 5. Acts 1813-14, ch. 12, secs. 1, 2. Acts 1814, ch. 3, secs. 4, 5. Rev. Laws 1824, ch. 24, secs. 9, 12. Rev. Laws 1831, ch. 10, sec. 5. Rev. Stat. 1838, ch. 9 (first act), sec. 5. Rev. Stat. 1843, ch. 13, sec. 5. Acts 1858 (Spec. Sess.), ch. 12, sec. 2. Acts 1859, ch. 114, sec. 1. Acts 1861, ch. 41, sec. 133. Acts 1933, 1937; Burns, 1939 suppl., 49-2601; Baldwin, 1937 suppl., 7547. Acts 1933; Burns 49-2675; Baldwin 7549. *Opinions of the Attorney General of Indiana*, 1937, p. 636; 1938, p. 234. See footnote 53 herein.

¹⁰ Acts 1905; Burns 10-3102; Baldwin 2636. Acts 1917; Burns 10-3103, 10-3104; Baldwin 2637, 2638.

Liquor licenses, Acts 1901, 1913; Burns 49-2513; Baldwin 5467.

If the prosecuting attorney is convicted of corruption or other high crime, he may, on information in the name of the state, be removed from office by the supreme court. This is the only method by which he may be removed from office.¹¹

Any vacancy in the office of prosecuting attorney is filled through appointment by the governor. The appointee must take oath and post bond as was required of his predecessor, and holds office for the unexpired term and until his successor is elected and qualified.¹²

The prosecuting attorney may appoint such deputies as may be necessary. Their salaries are paid on warrants drawn by the auditor after an appropriation therefor by the county council and allowance of a claim therefor by the board of commissioners.¹³ The deputies must take the oath required of the prosecuting attorney, may perform all his official duties, and are subject to the same regulations and penalties.¹⁴ The prosecuting attorney may remove such deputies at any time and is responsible for their official acts.¹⁵ Whenever the prosecuting attorney is disqualified or fails to attend court the judge must appoint some person to act in his place.¹⁶

¹¹ Const. 1851, art. 7, sec. 12. Acts 1897; Burns 49-819; Baldwin 13152. *State ex rel. Gibson v. Friedley* (1893), 135 Ind. 119, 34 N. E. 872; *State v. Patterson* (1914), 181 Ind. 660, 105 N. E. 228; *State v. Redman* (1915), 183 Ind. 332, 109 N. E. 134; *State ex rel. Williams v. Ellis* (1916), 184 Ind. 307, 112 N. E. 98; *State v. Dearth* (1929), 201 Ind. 1, 164 N. E. 489; *State ex rel. Youngblood v. Warrick Circuit Court* (1935), 203 Ind. 594, 196 N. E. 254; *State ex rel. Spencer v. Marion Criminal Court* (1938), 214 Ind. 551, 15 N. E. (2d) 1020. Interview of July 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹² Const. 1851, art. 5, sec. 18; art. 6, sec. 9. Acts 1825-26, ch. 44, sec. 3. Rev. Laws 1831, ch. 10, sec. 4. Rev. Stat. 1838, ch. 9 (first act), sec. 4. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-402, 49-404, 49-408, 49-409; Baldwin 13101, 13103, 13106, 13107. *State ex rel. Custer v. Shortemeier* (1929), 197 Ind. 507, 151 N. E. 407. Interview of August 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹³ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1937; Burns, 1939 suppl., 49-2601; Baldwin, 1937 suppl., 7547. Acts 1933; Burns 49-2602, Baldwin 7548.

¹⁴ 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109. *Stout v. State* (1834), 93 Ind. 150.

¹⁵ 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933; Burns 49-2602; Baldwin 7548.

¹⁶ Rev. Laws 1824, ch. 24, sec. 12. Acts 1833-34, ch. 92, secs. 1-4. Rev. Stat. 1838, ch. 9 (second act), secs. 1-4. Acts 1851-52, ch. 8, sec. 5. 2 Rev. Stat. 1852, Burns 49-2505; Baldwin 5461. *Perfect v. State* (1926), 197 Ind. 401, 141 N. E. 52; *State ex rel. Williams v. Ellis* (1916), 184 Ind. 307, 112 N. E. 98; *State ex rel. Spencer v. Marion Criminal Court* (1938), 214 Ind. 551, 15 N. E. (2d) 1020.

From the organization of Shelby County in 1822¹⁷ until 1824 a prosecuting attorney for the county was appointed by the judges of the circuit court, to serve during his good behavior. From 1824 until 1827 a prosecuting attorney for the judicial circuit was appointed for a 1-year term by the governor. From 1827 until 1843 he was appointed for a 2-year term by joint ballot of the senate and house of representatives. From 1843 until 1847 he was elected for a 2-year term by the voters of the judicial circuit. From 1847 until 1851 his term was 3 years. Since 1851 his term has been 2 years. The office of prosecuting attorney became a constitutional office when the Constitution of 1851 was adopted.¹⁸

Shelby County had a court of common pleas from 1853 until 1873. The judicial district of that court was composed of Shelby alone from 1853 until 1859, and the counties of Brown, Johnson, Monroe, Morgan, and Shelby from 1859 to 1873.¹⁹ During the existence of the court of common pleas, a district attorney was biennially elected by the voters of the judicial district of that court. The district attorney's duties were similar to those of the prosecuting attorney, except that they extended only to the courts of common pleas and the courts of justices of the peace in the counties forming the judicial district of the court of common pleas.²⁰

From 1911 to 1913 Shelby County had a superior court, and the prosecuting attorney performed in that court duties similar to the duties he performed in the circuit court.²¹

FUNCTIONS AND RECORDS

The prosecuting attorney is a judicial officer.²² He

¹⁷ Acts 1821-22, ch. 31, secs. 1, 2.

¹⁸ Const. 1816, art. 12, secs. 3, 4. Const. 1851, art. 7, sec. 11. Acts 1810, ch. 10, sec. 5. Acts 1813-14, ch. 12, secs. 1-5; ch. 29, secs. 1, 2. Acts 1814, ch. 2, secs. 1, 2; ch. 3, secs. 4, 5. Acts 1816-17, ch. 3, sec. 2. Rev. Laws 1824, ch. 24, secs. 9, 10. Acts 1826-27, ch. 17, sec. 1. Rev. Laws 1831, ch. 10, sec. 1. Rev. Stat. 1838, ch. 9 (first act), sec. 1. Rev. Stat. 1843, ch. 4, sec. 28; ch. 58, sec. 1; ch. 59, sec. 21; ch. 73, sec. 1. Acts 1842-43, ch. 15, sec. 1. Acts 1846-47 (general), ch. 13, sec. 1. Acts 1850-51 (general), ch. 132, secs. 1-3. 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456.

¹⁹ See the essay entitled "Circuit Court."

²⁰ Acts 1851-52, ch. 8. 2 Rev. Stat. 1852, pt. 3, ch. 3. Acts 1861 (Spec. Sess.), ch. 25; ch. 28, sec. 1. Acts 1873, ch. 29, sec. 79.

²¹ Acts 1911, ch. 67, secs. 1, 5. Acts 1913, ch. 2, secs. 3-5.

²² State *ex rel.* Freed v. Martin Circuit Court (1938), 214 Ind. 152, 14 N. E. (2d) 910; State *ex rel.* Spencer v. Marion Criminal Court (1938), 214 Ind. 551, 15 N. E. (2d) 1020.

acts as attorney for the state in criminal cases under the state laws and as attorney for the state and county in certain civil cases.²³

Investigations of alleged violations of criminal laws conducted by the prosecuting attorney,²⁴ the sheriff,²⁵ or the coroner,²⁶ co-operating with one another and with state and federal bureaus of law enforcement;²⁷ and the results of such investigations, if they point toward violations of the law, are presented to the grand jury by the prosecuting attorney.²⁸

The prosecuting attorney or his deputy may appear before the grand jury for the purpose of interrogating witnesses or giving information relative to any matter cognizable by it or giving requested advice on any legal matter, but he cannot be present during the deliberations of the grand jury.²⁹ When an indictment is found by the grand jury, the foreman writes thereon the words "A true bill", and signs his name thereunder. The indictment is also signed by the prosecuting attorney.³⁰

The prosecuting attorney conducts all prosecutions for felonies and misdemeanors charged in indictments returned by the grand jury.³¹ He may also prosecute on affidavit all

²³ *Ibid.* Acts 1817-18 (general), ch. 4, sec. 2. Rev. Laws 1824, ch. 24, sec. 10. Rev. Laws 1831, ch. 10, sec. 2. Rev. Stat. 1838 (first act), ch. 9, sec. 2. Rev. Stat. 1843, ch. 37, sec. 101. Acts 1851-52, ch. 8, secs. 1, 3, 4. Acts 1905; Burns 4-2409; Baldwin 11595. 2 Rev. Stat. 1852; Burns 49-2501, 49-2503, 49-2504; Baldwin 5456, 5459, 5460. Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754.

²⁴ 2 Rev. Stat. 1852; Burns 49-2503; Baldwin 5459.

"Inquisitorial powers are vested in the office of the prosecutor and in grand juries, and not in judges and courts." State *ex rel.* Spencer v. Marion Criminal Court (1938), 214 Ind. 551, 15 N. E. (2d) 1020.

²⁵ 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

²⁶ 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1939 suppl., 49-2904; Baldwin, 1935 suppl., 5439.

²⁷ Acts 1927; Burns 9-2603 to 9-2610; Baldwin 15353 to 15355, 15357 to 15361.

²⁸ Acts 1905, 1927; Burns 9-806, 9-901, 9-908; Baldwin 2102, 2123, 2131.

²⁹ Acts 1905; Burns 9-826; Baldwin 2122. Williams v. State (1919), 188 Ind. 283, 123 N. E. 209.

³⁰ Acts 1905; Burns 9-901; Baldwin 2123. Neal v. State (1938), 214 Ind. 328, 14 N. E. (2d) 590.

Endorsement by prosecuting attorney. Taylor v. State (1888), 113 Ind. 471, 16 N. E. 183; Robinson v. State (1912), 177 Ind. 263, 97 N. E. 929; Hamer v. State (1928), 200 Ind. 403, 163 N. E. 91.

³¹ Rev. Laws 1824, ch. 24, sec. 10. Rev. Laws 1831, ch. 10, sec. 2. Rev. Stat. 1838 (first act), ch. 9, sec. 2. Acts 1851-52, ch. 8, sec. 4. 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460.

criminal offenses under the state laws, other than treason and murder (which must be prosecuted on indictment).^{§2}

It is the duty of the prosecuting attorney to superintend, on behalf of the county, all civil actions and proceedings in which the county may be interested or involved,^{§3} including suits to collect taxes and tax penalties^{§4} and suits against officers or on their bonds.^{§5}

The prosecuting attorney prosecutes suits on forfeited recognizances,^{§6} suits before 1921 to recover costs of cutting

^{§2} Acts 1905, 1927; Burns 9-908; Baldwin 2131.

Endorsement by prosecuting attorney. *Robinson v. State* (1912), 177 Ind. 263, 97 N. E. 929.

A court cannot compel the prosecuting attorney to approve the affidavit. *State ex rel. Freed v. Martin* Circuit Court (1938), 214 Ind. 152, 14 N. E. (2d) 910.

"Criminal prosecutions cannot be instituted by private individuals. They may be initiated by grand jury indictment. Formerly the only other method was on information. For this latter procedure the legislature substituted prosecutions by affidavit, approved by the prosecuting attorney." *Ibid.*

"In him is vested discretionary judicial power to investigate and determine who shall be prosecuted and who shall not be prosecuted. If he fails to exercise his official discretion honestly and impartially, the remedy is by impeachment." *State ex rel. Spencer v. Marion* Criminal Court (1938), 214 Ind. 551, 15 N. E. (2d) 1020.

^{§3} Acts 1816-17 (general), ch. 32, sec. 9; ch. 72, sec. 5. Rev. Laws 1824, ch. 24, sec. 10. Rev. Laws 1831, ch. 90, secs. 21, 27. Rev. Stat. 1843, ch. 13, sec. 233; ch. 14, sec. 35, ch. 15, sec. 128. Acts 1851-52, ch. 8, sec. 4. 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460. Board of County Comrs. v. Templer (1870), 34 Ind. 322.

^{§4} Rev. Laws 1824, ch. 86, secs. 23, 43. Acts 1931; Burns 6-2415; Baldwin 15953. Acts 1935, 1937; Burns, 1939 suppl., 12-912; Baldwin, 1937 suppl., 3764-41. Acts 1937; Burns, 1939 suppl., 16-320; Baldwin, 1937 suppl., 3811-4. Acts 1919; Burns 64-608, 64-719, 64-1319, 64-1518, 64-1519, 64-2208; Baldwin 15576, 15633, 15723, 15772, 15773, 15815. Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754. Acts 1933, 1937; Burns, 1939 suppl., 64-2627, 64-2628; Baldwin, 1937 suppl., 16007, 16009. Board of County Comrs. v. Templer (1870), 34 Ind. 322; La Plante v. *State ex rel. Goodman* (1899), 152 Ind. 80, 52 N. E. 452.

^{§5} Acts 1813, ch. 8, sec. 24. Acts 1816-17, ch. 8, sec. 22; ch. 17, sec. 13; ch. 19, secs. 14, 15. Acts 1817-18 (general), ch. 42, secs. 19, 21, 22; ch. 43, sec. 21; ch. 44, sec. 13. Acts 1818-19, ch. 8, sec. 2. Acts 1819-20, ch. 46, sec. 2. Rev. Laws 1824, ch. 23, sec. 8; ch. 24, sec. 10; ch. 56, sec. 4; ch. 86, secs. 21, 23. Acts 1825, ch. 21, sec. 4. Rev. Laws 1831, ch. 10, sec. 2; ch. 81, sec. 46. Acts 1834-35 (general), ch. 18. Rev. Stat. 1838, ch. 9 (first act), sec. 2. 1 Rev. Stat. 1852; Burns 44-204; Baldwin 5535. Acts 1883; Burns 49-142; Baldwin 13094. Acts 1895; Burns 49-1408; Baldwin 7583. Acts 1917; Burns 60-227; Baldwin 13878. Acts 1919; Burns 64-2507, 64-2508; Baldwin 15856, 15857. *Wood v. State ex rel. Canady* (1890), 125 Ind. 219, 25 N. E. 190; *Wood v. Board of County Comrs.* (1890), 125 Ind. 270, 25 N. E. 188.

^{§6} Acts 1816-17, ch. 5, sec. 1. Acts 1817-18, (general), ch. 4, sec. 1. Acts 1851-52, ch. 8, sec. 4. 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460. *State v. Schloss* (1883), 92 Ind. 293.

hedge fences when the work was done at county expense,³⁷ suits against railroad companies to recover penalties for not graveling highway crossings,³⁸ suits to recover gambling losses,³⁹ and suits to enjoin violation of laws concerning horse racing.⁴⁰ He acts for the state when a surety on a forfeited recognizance sues the principal on the theory of subrogation of the rights of the state.⁴¹ He prosecutes bastardy proceedings,⁴² quo warranto proceedings,⁴³ and cases of surety of the peace.⁴⁴ He resists undefended divorce suits⁴⁵ and applications for change of names of persons; and protects the interests of all persons of unsound mind.⁴⁶ In lunacy proceedings he represents the person alleged to be insane.⁴⁷ He must be present at the hearing of proceedings to commit any person to a hospital operated by the trustees of Indiana University.⁴⁸ On appeals from the medical examination board in license matters he represents that board.⁴⁹

The Attorney General of Indiana holds conferences with all prosecuting attorneys concerning the enforcement of the state laws.⁵⁰

³⁷ Acts 1891; Burns 30-303; Baldwin, 1935 suppl., 7648-1. Acts 1895; Burns 30-307; Baldwin 7649.

³⁸ Acts 1895; Burns 55-620; Baldwin 14119.

³⁹ 1 Rev. Stat. 1852; Burns 10-2323; Baldwin 2806. *Ervin v. State ex rel. Walley* (1897), 150 Ind. 332, 48 N. E. 249.

⁴⁰ Acts 1895; Burns 10-2711; Baldwin 9273.

⁴¹ Acts 1905; Burns 9-1045; Baldwin 2178.

⁴² 2 Rev. Stat. 1852; Burns 3-622; Baldwin 867.

⁴³ Acts 1819-20, ch. 74, sec. 3. Rev. Stat. 1843, ch. 48, secs. 46, 58. 2 Rev. Stat. 1852, pt. 2, ch. 1, secs. 749, 750. Acts 1881 (Spec. Sess.), 1929; Burns 3-2001, 3-2002; Baldwin 1045, 1046. Acts 1897; Burns 49-821 to 49-823, 49-831; Baldwin 13154 to 13156, 13164.

⁴⁴ Acts 1905; Burns 9-511; Baldwin 2059. *Davis v. State* (1894), 38 Ind. 11, 37 N. E. 397.

⁴⁵ Acts 1817-18 (general), ch. 35, sec. 3. Rev. Laws 1831, sec. 9. Rev. Stat. 1838, ch. 31, sec. 8. Rev. Stat. 1843, ch. 35, sec. 69. Acts 1873, 1913; Burns 3-1212 to 3-1215; Baldwin 916 to 919. *State v. Brinneman* (1839), 120 Ind. 357, 22 N. E. 332. *Scott v. Scott* (1861), 17 Ind. 309.

⁴⁶ Acts 1851-52, ch. 8, sec. 4. 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460. *Martin v. Matsinger* (1891), 130 Ind. 555, 30 N. E. 523.

⁴⁷ 2 Rev. Stat. 1852, Acts 1895; Burns 8-202; Baldwin 3460. *Chase v. Chase* (1901), 163 Ind. 178, 71 N. E. 485. *Martin v. Matsinger* (1891), 130 Ind. 555, 30 N. E. 523.

⁴⁸ Acts 1939; Burns, 1939; suppl., 28-5416, 28-5417; Baldwin, 1939 suppl., 14078-89b, 14078-89c.

⁴⁹ Acts 1897, 1899, 1901; Burns 63-1306; Baldwin 10707.

⁵⁰ Acts 1931, 1933, 1937; Burns, 1939 suppl., 49-2601; Baldwin, 1937 suppl., 7547.

The prosecuting attorney administers oaths⁵¹ and performs the duties of notaries public.⁵² He collects docket fees for his services in criminal prosecutions, divorce cases, suits on forfeited recognizances, and other suits which he is required to prosecute or defend, and pays such fees over to the county treasurer. He makes monthly reports to the board of commissioners concerning his activities and the amount of fees collected by him and turned over to the treasurer.⁵³

The state board of accounts has prescribed forms for an appearance record, fee book, and cashbook, to be kept by the prosecuting attorney, and a monthly report to be made by him.⁵⁴ The incumbent states that he keeps no records.⁵⁵

IX. COUNTY ASSESSOR

LEGAL STATUS

The office of county assessor exists under the mandatory provisions of an act of 1919, as amended in 1921. The assessor is elected for a 4-year term by the voters of the county, and holds office until his successor has been elected and qualified. He receives a certificate of election from the clerk of the circuit court and is not commissioned by the governor. The assessor must be an elector of the county at the time of his election, must have been a resident freeholder thereof during the preceding 4 years, must reside within the county after his election, and must not hold any other lucrative office. He must post bond in the amount of \$5,000, to be approved by and filed with the auditor.¹ The assessor must

⁵¹ Acts 1901; Burns 49-2506; Baldwin 5462. *Lenciania v. State* (1929), 200 Ind. 528, 164 N. E. 271.

⁵² Acts 1919; Burns 49-2507 to 49-2510; Baldwin 5463 to 5466.

⁵³ Rev. Laws 1824, ch. 24, sec. 13; ch. 36, secs. 22, 24. Acts 1825-26, ch. 44, sec. 4. Acts 1861 (Spec. Sess.), ch. 25, sec. 4; ch. 28, sec. 1. Acts 1873, ch. 43, sec. 16. Acts 1875 (Spec. Sess.); Burns 49-2511; Baldwin 5468. Acts 1933, 1937; Burns, 1939 suppl., 49-2601; Baldwin, 1937 suppl., 7547. Acts 1933; Burns 49-2695; Baldwin 7550. *Opinions of the Attorney General of Indiana*, 1938, p. 238.

⁵⁴ Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

⁵⁵ Interview of February 23, 1940 with H. G. Barger, prosecuting attorney.

¹ Const. 1851, art. 2, sec. 9; art. 6, secs. 4, 6; art. 15, secs. 3, 6. Acts 1817-18 (general), ch. 42, sec. 3. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin 13095, 13096. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.²

The assessor receives a regular salary of \$1,200 per year, plus \$2.50 for each day spent in conference with the state board of tax commissioners, together with actual railroad fare to and from the place of holding such conferences.³ For his services as appraiser of decedents' estates, the circuit court allows him compensation between \$1 and \$50 for each estate appraised, based on the value thereof.⁴ He is entitled to reimbursement for expenses when temporarily working outside Shelby County under direction of the board of commissioners.⁵ He is not permitted to retain, as compensation for himself, any fees collected by him, other than as stated above.⁶

For sufficient legal grounds the assessor may be removed by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.⁷ If the assessor is convicted of a felony the judgment of conviction must declare his office vacant.⁸ For incompetency, neglect of duty, or misconduct in office, the assessor may be removed from office by the state board of tax commissioners after a hearing by that board. On appeal to the circuit court he may have a trial *de novo* on the charges sustained by the state board.⁹

Any vacancy in the office of assessor is filled through appointment by the board of commissioners. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), an

² Const. 1816, art. 11, sec. 1. Const. 1851, art. 15, sec. 4. Acts 1816-17, ch. 19, sec. 1. Acts 1817-18 (general), ch. 42, sec. 3. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

³ Acts 1817-18 (general), ch. 42, sec. 23. Acts 1933; Burns 49-1004, 49-1011; Baldwin 7534, 7541. Acts 1919; Burns 64-1103; Baldwin 15698.

⁴ Acts 1931, 1933, 1939; Burns, 1939 suppl., 6-2408; Baldwin, 1939 suppl., 15046.

⁵ Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

⁶ Acts 1933; Burns 49-1005; Baldwin 7535.

⁷ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13163. Acts 1875; Burns 49-837; Baldwin 13052.

⁸ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁹ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

assessor is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor; and he holds office until his successor is elected and qualified.¹⁰

Subject to the approval of the board of commissioners, the assessor may appoint one or more deputies to serve no more than 30 days in any calendar year. Each deputy receives \$4 per day as compensation. They have the same qualifications, powers, and duties as the assessor, are subject to his control and direction, and must take the oath of office required of the assessor.¹¹ With the approval of the board of commissioners, the assessor may also employ clerical assistants who shall each receive compensation not exceeding \$5 per day, pursuant to appropriation by the county council.¹²

From the organization of Shelby County in 1822¹³ until 1841, assessors (often called listers) were appointed annually by the board doing county business, to list all property subject to taxation and to determine the value thereof (where the tax was based on value).¹⁴ Under acts of 1824 and 1831 any person refusing to accept his appointment as assessor was subject to a penalty of \$25.¹⁵ An act of February 10, 1841 provided for the election of a county assessor in each county for a 2-year term.¹⁶ The office of county assessor was abolished in 1852, and the duties thereof were transferred to township assessors elected for 2-year terms.¹⁷ From 1841 to 1872 real property was assessed by appraisers appointed, from time to time as needed, by the board of commissioners.¹⁸

¹⁰ Const. 1851, art. 6, sec. 9. Rev. Stat. 1843, ch. 7, sec. 61. Acts 1831 (Spec. Sess.); Burns 29-701; Baldwin 7081. ¹¹ Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. Acts 1919, 1921; Burns 64-1101; Baldwin 15696. *Douglass v. State ex rel. Wright* (1869), 31 Ind. 429. Interview of July 11, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹¹ ¹ Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1919; Burns 64-1102; Baldwin 15698.

¹² Acts 1933; Burns 49-1011; Baldwin 7541.

¹³ Acts 1821-22, ch. 31, secs. 1, 2.

¹⁴ Acts 1807, ch. 51, sec. 11; ch. 92, sec. 1. Acts 1811, ch. 35, secs. 1, 17. Acts 1813-14, ch. 32, secs. 1-3. Acts 1816-17, ch. 19, secs. 1-6, 8, 16. Acts 1817-18 (special), ch. 36, sec. 3. Acts 1817-18 (general), ch. 42, sec. 1. Rev. Laws 1824, ch. 15, sec. 7; ch. 86, secs. 5-7. Rev. Laws 1831, ch. 81, secs. 3-5. Rev. Stat. 1838, ch. 21, sec. 12.

¹⁵ Rev. Laws 1824, ch. 86, sec. 29. Rev. Laws 1831, ch. 81, sec. 4.

¹⁶ Acts 1840-41 (general), ch. 3, sec. 1.

¹⁷ ¹ Rev. Stat. 1852, ch. 6, sec. 64; ch. 92, sec. 1.

¹⁸ Acts 1840-41 (general), ch. 1, secs. 1-12, 20. Acts 1850-51 (general), ch. 5, sec. 1. ¹ Rev. Stat. 1852, ch. 6, secs. 44, 45. Acts 1858 (Spec. Sess.), ch. 2, sec. 1.

The elective office of the county assessor (2-year term) replaced that of appraiser in 1872;¹⁹ but in 1875 the office was abolished, and the duties were transferred to township assessors elected for 2-year terms.²⁰ An act of March 6, 1891 re-established the office of county assessor. Under this law the assessor was elected for a 4-year term, and was not eligible for re-election until 4 years after the expiration of the term for which he was elected. He was required to be a resident freeholder and householder of the county not less than 5 years before the date of his election.²¹ The act of 1891 was superseded by the act of 1919 mentioned in the first paragraph herein. In 1933 the office of township assessor was abolished in each township having a population not exceeding 5,000 (all townships except Addison), and the duties of the office were transferred to the township trustee.²² Reference hereinafter to township assessors includes township trustees performing the duties prescribed by statutes for township assessors.

FUNCTIONS AND RECORDS

The duties of the county assessor are to examine tax duplicates and other records and papers in the offices of the auditor, treasurer, recorder, clerk, sheriff, and surveyor, together with the returns of the township assessors; to discover, list, and assess all omitted property of every kind, entering his valuations in a separate column on the township assessors' books; to advise and instruct the township assessors; to report to the state board of tax commissioners any incompetency or neglect of duty on the part of township assessors;²³ and determine the value of taxable intangibles.²⁴ Under appointments by the circuit court, he serves as appraiser of estates in the administration of the inheritance

¹⁹ Acts 1872 (Spec. Sess.), ch. 37, secs. 107, 276.

²⁰ Acts 1875, ch. 97, secs. 2, 7, 9.

²¹ Acts 1891, ch. 99, sec. 112.

²² Acts 1933; Burns 64-1031; Baldwin 15664.

²³ Acts 1913; Burns 64-1102; Baldwin 15698. *McConnell v. Hampton* (1905), 164 Ind. 547, 73 N. E. 1092. *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (1940), pp. 22-30, 53-139.

²⁴ Acts 1933, 1935; Burns, 1939 suppl., 64-905; Baldwin, 1935 suppl., 15903.

"Valuation of Intangibles", *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (1940), pp. 39-53.

tax law.²⁵ He appraises school property in accordance with laws concerning transfer of pupils from one school to another.²⁶ He is a member and president of the county board of review.²⁷ His work is under the direction of the state board of tax commissioners.²⁸ Formerly the county assessor made out the assessment rolls (now made by the auditor),²⁹ took a census of deaf mutes in the county (now done by township assessors),³⁰ and kept a book showing the names of all blind, dumb, deaf, or insane persons in the county.³¹

Assessments by the county assessor under the property tax laws are subject to review by the county board of review. Such assessments are also reviewable by the circuit court on the question of taxability of the property.³²

The assessor must return to the auditor, on or before the 1st Monday after July 4 each year, all township assessors' books, returns, lists, schedules, maps, and other papers received by him from the auditor, together with such additional lists, assessments, books, and papers as he has made thereto.³³ He is not required to keep any records permanently.³⁴

230. AUTOMOBILE LICENSE RECORD, 1932-. 20 bdl.

Copies of motor vehicle registration certificates issued in county, showing dates of certificate and purchase of vehicle, year vehicle built, capacity, engine and plate numbers and make of vehicle, name of taxing unit, name and address of owner, and amount of fee. Arr. chron. by dates of certificates. No index. Typed. 3 x 2 x 1½. Assr. off.

²⁵ Acts 1881 (Spec. Sess.); Burns 4-803; Baldwin 1397. Acts 1931, 1933, 1939; Burns, 1939 suppl., 6-2403; Baldwin, 1939 suppl., 15946. "Inheritance Tax", *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939 (1940)*, pp. 32-39.

²⁶ Acts 1901, 1909, 1915, 1921; Burns 28-3704; Baldwin 6223.

²⁷ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

²⁸ Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

²⁹ Rev. Laws 1824, ch. 86, secs. 4, 5, 7. Acts 1838-39 (general), ch. 14, secs. 14, 15. Rev. Stat. 1843, ch. 12, sec. 28. Acts 1919; Burns 64-1403, 64-1406; Baldwin 15740, 15745.

³⁰ Acts 1838-39 (general), ch. 41, sec. 1. Acts 1849-50 (general), ch. 17, sec. 4. Acts 1859, ch. 7, secs. 1, 2. Acts 1891, ch. 99, sec. 54. Acts 1919; Burns 64-607; Baldwin 15575.

³¹ Acts 1849-50 (general), ch. 17, secs. 2, 3.

³² Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1205; Baldwin 15700, 15704. Acts 1919, 1927; Burns 64-2103; Baldwin 15804. This statement of the limitation on the scope of the appeal was suggested by Philip Zoercher, chairman of the state board of tax commissioners.

³³ Acts 1919; Burns 64-1102; Baldwin 15698.

³⁴ Interview of May 18, 1939 with E. P. Brennan, state examiner.

231. REPORT TO COUNTY ASSESSOR BY TOWNSHIP ASSESSOR,
1932-. 2 f. b.

Deputy assessors' weekly reports of property assessed, showing date of report, names of deputy assessor and taxing unit, number of items assessed and not assessed, class of property assessed, reason for non-assessment, assessed valuation for each class, and total assessed valuation. Arr. alph. by names of taxing units, thereunder chron. by dates of reports. No index. Hdw. 8 x 4 x 12. Assr. off.

232. REPORT TO STATE BOARD OF TAX COMMISSIONERS, 1932-.
2 f. b.

Copies of assessor's reports to state board of tax commissioners of value of property assessed, showing date of report, name of taxing unit, number and value of assessments of automobiles and trucks, farm implements, livestock, poultry, retail stores and shops merchandise, furniture and fixtures, and average amount per assessment. Arr. chron. by dates of reports. No index. Hdw. 5 x 4 x 10. Assr. off.

233. INTANGIBLES, 1933-. 2 f. d.

Applications for determining the valuation of taxable intangibles, showing date of application, name and address of applicant, description of stocks, bonds, mortgages and other intangibles, face value, valuations by applicant, county assessor and state tax board, and computation of tax. Arr. alph. by names of applicants. No index. Hdw. 10 x 12 x 30. Assr. off.

For other intangible tax records, see entries 253-255.

234. RECORD OF NOTICES SENT, 1900-1909. 1 vol. Dis-
continued.

Record of notices sent to owners of property not listed for taxation to appear and show why property should not be assessed, showing date of notice, names of property owner and taxing unit, list of property, and date and place of appearance. Arr. chron. by dates of notices. No index. Hdw. 300 pp. 16 x 12 x 2. Assr. off.

X. COUNTY BOARD OF REVIEW

LEGAL STATUS

The county board of review exists under the mandatory provisions of an act of 1919. The board is composed of the county assessor, auditor, and treasurer, and two freeholders

of opposite political parties, appointed annually by the judge of the circuit court.¹ An appointed member must be an elector of the county at the time of his appointment, must have been an inhabitant thereof during the preceding year, and must reside within the county after his appointment.² Every member must take an oath that he will support the state and federal constitutions and will faithfully discharge his duties as a member of the board of review and will assess, review, and equalize the assessment of all property of the county according to the true cash value of such property.³ The assessor and auditor, are, respectively, the president and secretary of the county board of review.⁴

The appointed members of the county board of review receive, as compensation, \$5 for each day actually served as members of the board. Allowance therefor is made by the board of commissioners on claims supported by the certificate of the assessor. The assessor, auditor, and treasurer receive no compensation, in addition to their regular salaries, for their services on the board of review. Before 1933 the auditor and treasurer received, in addition to their regular salaries, \$5 per day for each day actually served as members of the board.⁵

For sufficient legal grounds any member of the county board of review may be removed by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.⁶ If any member is convicted of a felony the judgment of conviction must declare his office vacant.⁷ The judge of the circuit court fills vacancies as to members appointed by him.⁸ Any vacancy in the office of the other members is filled by replacement in

¹ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

² Const. 1851, art. 6, secs. 4, 6.

³ *Ibid.*, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

⁴ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

⁵ Acts 1933; Burns 49-1001, 49-1004; Baldwin 7531, 7534. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15700, 15703. *Opinions of the Attorney General of Indiana, 1934*, p. 313; 1936, p. 130.

⁶ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁷ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁸ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

the office of county assessor, auditor, or treasurer, as the case may be, the membership in the board of review being an incident to such office.⁹

Before 1919 duties analogous to those of the present board of review were performed by the following officers and boards: From the organization of the county in 1822¹⁰ through 1823, board of commissioners;¹¹ 1824 through 1838, clerk of the circuit court and assessors or listers;¹² 1839 through 1840, board of commissioners, clerk of the circuit court, and assessors or listers;¹³ 1841, board of commissioners, county assessor, and auditor (personal property only); 1841, board of equalization, composed of the board of commissioners, auditor, and appraiser (real estate only);¹⁴ 1842 through 1852, board of equalization, consisting of the board of commissioners, county assessor, and auditor;¹⁵ 1853 through 1871, board of equalization, composed of the board of commissioners, auditor, and assessors (personal property only);¹⁶ 1853 through 1871, board of equalization, made up of the board of commissioners, auditor, and appraiser or appraisers (real estate only);¹⁷ 1872 through 1880, board of equalization, including the board of commissioners, county assessor, and auditor;¹⁸ 1881 through 1890, board of equalization, consisting of board of commissioners and four freeholders (from different parts of the county) appointed by the circuit judge;¹⁹ 1891 through 1894, board of review, whose members were the county assessor, auditor, and treasurer;²⁰ and 1895 through 1918, as at present, a board of review, composed of the county assessor, auditor, treasurer, and two freeholders appointed by the circuit judge.²¹

⁹ See the essays entitled "Auditor", "County Assessor", and "Treasurer."

¹⁰ Acts 1821-22, ch. 31, secs. 1, 2.

¹¹ Acts 1816-17, ch. 19, sec. 7. Acts 1817-18 (general), ch. 42, sec. 12.

¹² Rev. Laws 1824, ch. 86, sec. 7. Acts 1825, ch. 47, sec. 3. Rev. Laws 1831, ch. 81, secs.

5, 7, 8.

¹³ Acts 1833-39 (general), ch. 14, secs. 5, 14, 15.

¹⁴ *Ibid.* Acts 1840-41 (general), ch. 1 secs. 9, 13.

¹⁵ Acts 1840-41 (general), ch. 1, sec. 18.

¹⁶ 1 Rev. Stat. 1852, ch. 6, sec. 91. The Revised Statutes of 1852 became effective on

May 6, 1853. Jones v. Cavins (1853), 4 Ind. 305.

¹⁷ 1 Rev. Stat. 1852, ch. 35, sec. 2. Jones v. Cavins (1853), 4 Ind. 305.

¹⁸ Acts 1872 (Spec. Sess.), ch. 37, secs. 150, 277, 278.

¹⁹ Acts 1881 (Spec. Sess.), ch. 96, sec. 129.

²⁰ Acts 1891, ch. 99, sec. 114.

²¹ Acts 1895, ch. 36, sec. 2.

In townships having a population not exceeding 5,000 (all townships except Addison), the office of township assessor has been abolished and the duties of such office are performed by the township trustee. Reference hereinafter to the township assessor includes the township trustee performing the duties prescribed by statutes for township assessors.²²

FUNCTIONS AND RECORDS.

The county board of review hears complaints of taxpayers concerning assessments (except assessments made by the state board of tax commissioners), reviews and corrects such assessments, equalizes property valuations, and makes assessments of omitted property. The tax list prepared by the county assessor and township assessors stands except in the particulars where it is changed by the board. The board has power to set aside the assessments for the whole county or a whole taxing unit therein and to order a new assessment by the county assessor and township assessors under instructions from the board.²³ The action of the board is subject to review by the state board of tax commissioners.²⁴ On questions of law concerning valuation of property, the decisions of the board of review and of the state board of tax commissioners may be reviewed by the circuit court; and appeal (on law and facts) may be taken from the board of review to the circuit court on the question of the property's taxability.²⁵

The board of review holds an annual meeting on the 1st Monday of June;²⁶ and the session can last 40 days in any year in which real estate is assessed, and 30 days in other years. Additional time for completing this board's duties may be allowed by the state board of tax commissioners.²⁷ A majority of all the members of the board of review con-

²² Acts 1933; Burns 64-1031; Baldwin 15634.

²³ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1205; Baldwin 15700, 15704. "Uniformity of Assessments", *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (Indianapolis, 1940), pp. 54-57.

²⁴ Acts 1919, 1935; Burns, 1939 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State board of tax commissioners, tax rule 6.

²⁵ Acts 1927; Burns 64-1020; Baldwin 15686. Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

This statement of the scope of the appeal was suggested by Philip Zoercher, chairman of the state board of tax commissioners.

²⁶ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

²⁷ Acts 1919; Burns 64-1235; Baldwin 15704. Tax rule 6 (as amended July 1, 1939) of the state board of tax commissioners.

stitutes a quorum for the transaction of business, and such majority must concur in decisions of the board. The sheriff serves all of the board's process not served by the assessor, and obeys all orders of the board. The auditor, as secretary, is required to keep full and accurate minutes of the proceedings of the board.²⁸ The county assessor, as president, keeps an attendance record; and, at the close of the session, certifies to the board of commissioners the number of days actually served by each member.²⁹

235. RECORD OF BOARD OF REVIEW, 1903-. 2 vols. 1880-94 in Record [Unredeemed Orders], entry 311.

Minutes of meetings of board of review, showing date of meeting, names of members present, subjects discussed, and actions taken. Arr. chron. by dates of meetings. No index. Typed. 350 pp. 18 x 13 x 3. 1 vol., 1903-14, bsmt. vt., B-7; 1 vol., 1915-, aud. off.

236. [CORPORATION STATEMENTS], 1915-. 2 vols.

Statements made by public utilities and domestic corporations as to ownership and valuation of stocks, bonds and all taxable property, showing dates of statement and filing, names of utility or corporation and person making statement, amount, valuation and classification of stocks and bonds, schedule of assets and liabilities, and itemized list of all taxable property. Arr. chron. by dates of statements. No index. Hdw. 150 pp. 16 x 16 x 1. Aud. off.

237. OATH OF MEMBER OF COUNTY BOARD OF REVIEW, 1932-. 1 f. b.

Original documents pertaining to board of review, including:

- i. Oaths of board of review members, showing date of oath, name of member, and signature of auditor. Arr. chron. by dates of oaths.
- ii. Minutes of meetings of board of review, showing same information as in entry 235. Arr. chron. by dates of meetings.

No index. Hdw. 11 x 5 x 14. Aud. off.

XI. COUNTY BOARD OF TAX ADJUSTMENT

LEGAL STATUS

The county board of tax adjustment exists under the

²⁸ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

²⁹ Acts 1919; Burns 64-1204; Baldwin 15703.

mandatory provisions of an act of 1937. The board consists of seven members, chosen as follows: One member of the county council, selected by the council; the mayor of the city of Shelbyville or any public official of the city appointed by him; one member of the board of school trustees of the city of Shelbyville, selected by that board; and four persons who are citizens and freeholders of the county, appointed before April 15 each year by the judge of the circuit court, to hold office until April 15 of the following year. No more than four of the seven members of the board of tax adjustment may be members of the same political party. Each member must be an elector of the county at the time of his appointment, must have been an inhabitant thereof during the preceding year, must reside within the county after his appointment, and must take an oath to support the state and federal constitutions and faithfully discharge the duties of his office.¹

The county board of tax adjustment elects a chairman and a vice-chairman from among its members; and the auditor acts as clerk, but has no vote in its proceedings. The members of the board serve without compensation. The board may employ one of the examiners of the state board of accounts to assist in the duties of the county board of tax adjustment; and the auditor pays from county funds the expenses in connection with such employment.²

For sufficient legal grounds any member of the county board of tax adjustment may be removed by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.³ If any member is convicted of a felony the judgment of conviction must declare his office vacant.⁴ A vacancy in the office of any member is filled in the manner provided by law for filling such office originally.⁵

Before 1932 no county officer or board performed duties analogous to those of the county board of tax adjustment,

¹ Const. 1851, art. 6, secs. 4, 6; art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

² Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

³ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁴ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁵ Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

except that in 1920 the county's tax levies were reviewable by the county council.⁶ Since 1919, with the exception of 1920, the budgets, tax levies, and tax rates of the county and the taxing units therein have been reviewable directly by the state board of tax commissioners in certain instances.⁷ Before 1919 the sole remedy of a taxpayer to obtain a review of such budgets, tax levies, or tax rates was to apply to a court for an injunction.⁸

A county board of tax adjustment, having functions similar to those of the present board, was established under a mandatory act of 1932, and another was established under a mandatory act of 1933 which superseded the 1932 act. The board established under the act of 1932 was composed of seven members, namely, the auditor, three members of the county council (selected annually by the council), and three members appointed annually by the judge of the circuit court. The board established under the act of 1933 was composed of seven members appointed for 1-year terms. One member was appointed by the county council from the members of the council. The other six members were appointed by the judge of the circuit court, as follows: A township trustee; the mayor of a city or the president of the board of trustees of a town; a member of the board of school commissioners, board of school trustees, or board of education of a school city or school town; and three resident freeholders of the county at large, not holding any other public office by virtue of an election held or appointment made within the county, and not closely related to the executive head of any municipal corporation of which the board of tax adjustment had jurisdiction.⁹

FUNCTIONS AND RECORDS

The board of tax adjustment reviews budgets, tax levies, and tax rates adopted by the county council for the county and also those adopted by the several taxing units within

⁶ Acts 1920 (Spec. Sess.), ch. 49, sec. 3. Interview of May 22, 1939 with Philip Zoercher, chairman of the state board of tax commissioners.

⁷ Acts 1919, 1920 (Spec. Sess.); Burns 64-1303, 64-1329, 64-1330; Baldwin 15707, 15733, 15734. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

⁸ Toledo & W. R. Co. v. Lafayette (1864), 22 Ind. 262; First Nat. Bank v. Greger (1901), 157 Ind. 479, 62 N. E. 21. Interview of May 22, 1939 with Philip Zoercher, chairman of the state board of tax commissioners.

⁹ Acts 1932 (Spec. Sess.), ch. 10, sec. 4. Acts 1933, ch. 237, sec. 4.

the county.¹⁰ The action of the board of tax adjustment is subject to review by the state board of tax commissioners.¹¹

The board of tax adjustment meets on the 2d Monday in September each year, and from day to day thereafter as its business requires, and must complete its duties on or before October 1.¹² The auditor, as clerk, keeps a complete record of the proceedings of the board.¹³

238. PROCEEDING ADJUSTMENT BOARD, 1932-. 1 f. b.

Original minutes of proceeding of board of tax adjustment, showing date of meeting, names and titles of members present, business discussed, and action taken. Arr. chron. by dates of meetings. No index. Typed. 11 x 5 x 14. Aud. off.

XII. BOARD OF FINANCE

LEGAL STATUS

The board of finance of Shelby County exists under the mandatory provisions of the Depository Act of 1937. Previous similar boards existed under acts of 1907 and 1935. The board of finance consists of the county commissioners of Shelby County. The county auditor is secretary.¹

The county auditor and the county commissioners receive no compensation for their services as secretary and members, respectively, of the board of finance. From 1907 to 1932, and in 1935 and 1936, the auditor received \$50 per year.²

Before 1907 no county officer or board performed duties analogous to those of the board of finance.³

¹⁰ Acts 1899; Burns 26-515; Baldwin 5379. Acts 1937; Burns, 1939 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5.

¹¹ Acts 1937; Burns, 1939 suppl., 64-311, 64-314; Baldwin, 1937 suppl., 15897-5, 15897-8.

¹² Acts 1937; Burns, 1939 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5.

¹³ Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

¹ Acts 1907, ch. 222, sec. 6 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1935, ch. 70, secs. 7, 43 (repealed by Acts 1937, ch. 3, sec. 42). Acts 1937; Burns, 1939 suppl., 61-629, 61-663; Baldwin, 1937 suppl., 13844-50, 13844-84. For laws concerning eligibility, oath, and removal of these officers, see the essays entitled "Auditor" and "Board of Commissioners."

² Acts 1907, ch. 222, sec. 7 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1935, ch. 70, sec. 7 (repealed by Acts 1937, ch. 3, sec. 42). Acts 1933; Burns 49-1001, 49-1004; Baldwin 7531, 7534. Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50. *Opinions of the Attorney General of Indiana, 1934*, p. 313; *1936*, p. 130.

³ Interview of May 31, 1939 with E. P. Brennan, state examiner.

FUNCTIONS AND RECORDS

The board of finance has supervision of all public funds of the county and of the safekeeping and deposit thereof.⁴ It designates the banks and trust companies to serve as depositories for county funds,⁵ and for all fees and funds received by the clerk of the circuit court by virtue of his office.⁶ It may revoke the commission of any depository at any time.⁷ In the name of "The Board of Finance of Shelby County", the board may sue and be sued in any action in any court of competent jurisdiction.⁸

The board of finance holds an annual meeting on the 3d Monday in January, at which it elects its president;⁹ and holds a biennial meeting on the 3d Monday in February, in the odd-numbered years, at which it considers proposals and designates depositories for the ensuing 2-year period.¹⁰ The board holds sessions whenever necessary to discharge its duties and accomplish the purposes of the laws governing it. A majority of the members constitutes a quorum for the transaction of business. All meetings are open to the public.¹¹

The board keeps as permanent records the depositories' monthly statements of deposits.¹² The auditor, as secretary of the board of finance,¹³ keeps a record of its proceedings. All records of the board are subject to public inspection.¹⁴

239. RECORD OF BOARD OF FINANCE, 1907-. 2 vols. (1, 2). Minutes of meetings of board of finance, showing date of meeting, names of members present, subjects discussed, and action taken. Arr. chron. by dates of meetings. No index. 1907-11, hdw.; 1912-, typed. 600 pp. 18 x 13 x 3. 1 vol., 1907-27, bsmt. vt., B-12; 1 vol., 1928-, aud. off.

240. BANK MONTHLY REPORTS, 1912-. 2 f. b. Monthly statements of deposits, withdrawals and minimum

⁴ Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

⁵ Acts 1937; Burns, 1939 suppl., 61-634 to 61-636; Baldwin, 1937 suppl., 13844-55 to 13844-57.

⁶ Acts 1937; Burns, 1939 suppl., 61-673; Baldwin, 1937 suppl., 1438-1.

⁷ Acts 1937; Burns, 1939 suppl., 61-636; Baldwin, 1937 suppl., 13844-57.

⁸ Acts 1937; Burns, 1939 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

⁹ *Ibid.*

¹⁰ Acts 1937; Burns, 1939 suppl., 61-636; Baldwin, 1937 suppl., 13844-57.

¹¹ Acts 1937; Burns, 1939 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

¹² Acts 1937; Burns, 1939 suppl., 61-638; Baldwin, 1937 suppl., 13844-59.

¹³ Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

¹⁴ Acts 1937; Burns, 1939 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

balances and interest accrued submitted to board of finance by depositories, showing date of statement, name and address of depository, balance on hand at beginning and end of month, minimum balance during month, total deposits, warrants paid, and amount of interest due on minimum balance. Arr. chron. by dates of statements. No index. Typed. 11 x 5 x 14. Aud. off.

241. BONDS AND PROPOSALS COUNTY DEPOSITORIES, 1927-. 1 f. b. Original documents pertaining to deposit of county funds, including depository proposals, surety bonds and contracts, showing dates of document, acceptance and filing, names and addresses of depositories, principals and sureties, amount and conditions of bond, and conditions of proposal and contract. Arr. chron. by dates of documents. No index. Hdw. 11 x 5 x 14. Aud. off.

242. RECORD DEPOSITORY BONDS, 1926-. 1 vol. (1). Record of personal and surety bonds posted by depositories of public funds, showing dates of bond, approval and recording, names and addresses of principals and sureties, and amount and conditions of bond. Arr. chron. by dates of bonds. No index. Hdw. 228 pp. 18 x 16 x 2. Bsmt. vt., B-12.

XIII. COUNTY SCHOOL FUND BOARD

LEGAL STATUS

The county school fund board exists under the mandatory provisions of an act of 1935. The board is composed of the county auditor, the clerk of the circuit court, and one member appointed by the judge of the circuit court for a 2-year term. No more than two members of the board may be adherents of the same political party.¹ The appointed member must be an elector of the county at the time of his appointment, must have been an inhabitant thereof during the preceding year, must reside within the county after his appointment,² and must take an oath to support the state and federal constitutions and faithfully discharge his duties.³

¹ Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558.

² Const. 1851, art. 6, secs. 4, 6.

³ Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

For the qualifications and oath of the ex officio members, see the essays entitled "Auditor" and "Clerk of the Circuit Court."

The appointed member of the county school fund board receives, as compensation, \$2 for each loan made by the board, which amount is taxed as a part of the costs and is paid by the borrower. The auditor and the clerk of the circuit court receive no compensation, in addition to their regular salaries, for their services on the county school fund board.⁴

For sufficient legal grounds any member of the county school fund board may be removed by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.⁵ If any member is convicted of a felony the judgment of conviction must declare his office vacant.⁶ The judge of the circuit court fills the vacancy as to the member appointed by him.⁷ Any vacancy in the office of the other members is filled by replacement in the office of the county auditor or clerk of the circuit court, as the case may be, the membership in the county school fund board being an incident to such office.⁸

From the organization of the county until 1824 school lands (section 16 in each township) were leased by a trustee of the school sections, appointed by the board of commissioners. From 1824 until 1829 such lands were leased by three trustees of the school section, elected for 3-year terms by the voters of the township.⁹ From 1822 until 1853 the public seminary funds of the county were in custody of a "trustee of public seminary" (appointed by the governor from 1822 to 1824, and appointed by the board of commissioners after 1824).¹⁰ From 1829 to 1849 loans from the school funds were made by the county school commissioner, elected for a 3-year term by the voters of the county. The school commissioner was a

⁴ Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558.

⁵ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.), Burns 4-303; Baldwin 1357. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-637; Baldwin 13052. *McComas v. Krug* (1879), 81 Ind. 327 (intoxication).

⁶ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁷ Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558.

⁸ See the essays entitled "Auditor" and "Clerk of the Circuit Court."

⁹ Acts 1816-17, ch. 12, secs. 1-5. Acts 1817-18 (general), ch. 49, secs. 1-5. Rev. Laws 1824, ch. 97, sec. 1.

¹⁰ Const. 1816, art. 9, sec. 1. Acts 1817-18 (general), ch. 72, sec. 1. Rev. Laws 1821, ch. 22, secs. 2, 3. Rev. Laws 1831, ch. 20, sec. 25. Rev. Stat. 1838, ch. 21, sec. 25. Rev. Stat. 1843, ch. 14, sec. 31. 1 Rev. Stat. 1852, ch. 97.

financial agent of the county for the management of school funds and the lands belonging thereto.¹¹ In 1849 this office was abolished and the duties thereof were divided between the auditor and the treasurer, under the direction of the board of commissioners.¹² With the approval of the township trustees, the auditor had authority to make loans until 1935.¹³

FUNCTIONS AND RECORDS

The school funds held by the county in trust for the purpose of making loans thereon are kept by the auditor in three separate accounts, to wit, "the common school fund," the "Congressional township school fund," and the "permanent endowment fund of Indiana University." These trust funds are loaned by the county school fund board. The county is held liable for both principal and interest. The interest on the common school fund and the Congressional Township school fund is paid into the state treasury and is distributed semi-annually among the several counties on the basis of average daily attendance of school children therein. The interest on the permanent endowment fund of Indiana University is paid to the state treasurer, and he pays it to the trustees of Indiana University.¹⁴

All loans made by the county school fund board (except those made to the county) must be secured by first mortgages on real estate. The board must satisfy itself, after approval of the title by the county attorney, as to the value of real estate offered in the mortgage, the validity of the title,

¹¹ Acts 1828-29, ch. 84, secs. 8, 15. Rev. Laws 1831, ch. 86, secs. 6-52. Acts 1832-33, ch. 70, sec. 3. Rev. Stat. 1838, ch. 94 (2), secs. 1-16. Rev. Stat. 1843, ch. 4, secs. 11, 20; ch. 13, secs. 106-108, 193, 246, 247; ch. 15, secs. 85-87, 97.

¹² Acts 1848-49 (general), ch. 116, sec. 4. Acts 1851-52, ch. 67, secs. 1, 2. 1 Rev. Stat. 1852, ch. 98, secs. 133-137. Acts 1865, ch. 1, sec. 54.

¹³ 1 Rev. Stat. 1852, ch. 98, secs. 34, 35. Acts 1865, ch. 1, sec. 75.

¹⁴ Const. 1851, art. 8, secs. 2-7. Acts 1865; Burns 28-101, 28-104, 28-105; Baldwin 6499, 6499-1, 6511. Acts 1907; Burns 28-102; Baldwin 6500. Acts 1865, 1893, 1932 (Spec. Sess.), 1933; Burns 28-1013; Baldwin 6490. Board of County Comrs. v. State *ex rel.* Hoard (1885), 103 Ind. 497, 3 N. E. 165; Board of County Comrs. v. State *ex rel.* Baldwin (1888), 116 Ind. 329, 19 N. E. 173; Board of County Comrs. v. State *ex rel.* Michener (1889), 120 Ind. 442, 22 N. E. 339; Board of County Comrs. v. State *ex rel.* Michener (1890), 122 Ind. 333, 24 N. E. 347; State *ex rel.* Michener v. Board of County Comrs. (1892), 5 Ind. App. 220, 32 N. E. 92.

Permanent endowment fund of Indiana University. Acts 1897; Burns 28-5542 to 28-5545; Baldwin 6908 to 6911. Acts 1833; Burns 28-5579; Baldwin 6956. Fisher v. Brower (1902), 159 Ind. 139, 64 N. E. 614.

and whether it is encumbered.¹⁵ The interest rate on such loans (except those made to the county) is 5 percent per annum.¹⁶ Loans may be made to the county, on proper authorization by the county council, for a period not exceeding 5 years,¹⁷ and the rate of interest thereon is 6 percent per annum.¹⁸

The mortgage must specify whether it belongs to the common school fund, to the permanent endowment fund of Indiana University, or to the Congressional Township fund, and, if the latter, the particular township or townships whose funds are loaned.¹⁹ Payments are made to the treasurer; and his receipt is filed with the auditor, who gives the payer a quietus therefor.²⁰ The auditor forecloses or otherwise enforces the defaulted mortgages.²¹ Whenever land acquired by the county through default on such loans cannot be sold by the auditor for an amount sufficient to cover the loan, the interest thereon, and expenses in connection therewith, the county may pay the loan, accept the land, and take possession thereof.²²

Whenever more than \$5,000 of the principal of any one fund remains unloaned in the county for 6 months, the county auditor must notify the auditor of state, and the unloaned moneys may be transferred to another county.²³

The auditor makes an annual report to the board of commissioners showing the condition and activity of the school funds. The board examines the report, makes a written report of such examination, enters it of record, and transmits

¹⁵ Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558.

¹⁶ Acts 1933; Burns 28-215; Baldwin 6574.

¹⁷ Acts 1901; Burns 28-201, 28-202; Baldwin 6563, 6569.

¹⁸ Acts 1901; Burns 28-204; Baldwin 6571.

¹⁹ Acts 1865; Burns 28-230 to 28-232; Baldwin 6587 to 6589.

²⁰ Acts 1865, 1901; Burns 28-235 to 28-237; Baldwin 6592, 6593, 6610.

²¹ Rev. Stat. 1843, ch. 13, sec. 96, p. 252. Acts 1855, ch. 86, sec. 86. Acts 1865, 1885 (Spec. Sess.), 1889, 1933; Burns 28-240 to 28-244, 28-246 to 28-249; Baldwin 6596, 6585, 6595 to 6597, 6599 to 6601, 6594. Webb v. Moore (1865), 25 Ind. 4; Key v. Ostrander (1867), 29 Ind. 1; Bonnell v. Ray (1880), 71 Ind. 141; Willson v. Brown (1882), 82 Ind. 471; Benefiel v. Aughe (1884), 93 Ind. 401; Shannon v. Hay (1886), 106 Ind. 589, 7 N. E. 376; Windstandley v. Crim (1889), 117 Ind. 328, 20 N. E. 833; Haynes v. Cox (1889), 118 Ind. 184, 20 N. E. 758; Work v. State *ex rel.* Holland (1889), 120 Ind. 119, 22 N. E. 127; State *ex rel.* Longfellow v. Wimer (1906), 166 Ind. 530, 77 N. E. 1078.

²² Acts 1899; Burns 28-250 to 28-256; Baldwin 6602 to 6608.

²³ Acts 1901; Burns 28-206; Baldwin 6573.

copies to the state superintendent of public instruction.²⁴ Where the whole or part of the school funds of the county have been loaned, the auditor apportions to each Congressional Township a sufficient number of mortgages to cover the principal of its Congressional Township school fund.²⁵ A "miscellaneous school fund account" with the Congressional Township school fund may be kept by the auditor to enable him to aggregate small sums from school funds to be used for one loan. In his report he shows fully the distribution of all school funds.²⁶

The auditor makes and keeps complete records of all loans made by the county school fund board, showing all payments and proceedings thereon.²⁷ The record entries for loans to counties are similar to those made for loans to private individuals.²⁸ Once each quarter the auditor publishes in a local newspaper a statement of the amount of school funds unloaned.²⁹

243. SCHOOL FUND MORTGAGES, CEMETERY FUND MORTGAGES,
1903-. 2 f. d.

Original documents pertaining to school and cemetery fund loans, including:

- i. School fund loans, including applications for loans, mortgages, abstracts of title, appraisers' reports and insurance policies, showing dates of document and filing, names of mortgagor, former owners and insurance company, location and description of property, amount and number of mortgage, and conditions of mortgage. Arr. alph. by names of mortgagors.
- ii. Cemetery fund loans, 1925-, including applications for loans, mortgages, abstracts of title, appraisers' reports and insurance policies, showing same information as paragraph i. Arr. alph. by names of mortgagors.

No index. Hdw. and typed. 12 x 14 x 26. Aud. off.

²⁴ Acts 1855, ch. 86, secs. 83, 95. Acts 1865; Burns 28-259 to 28-262; Baldwin 6611 to 6614.

²⁵ Acts 1865; Burns 28-263; Baldwin 6615.

²⁶ Acts 1879; Burns 28-264 to 28-266; Baldwin 6616 to 6618.

²⁷ Acts 1901; Burns 28-201 to 28-206; Baldwin 6568 to 6573. Acts 1865, 1901; Burns 28-235 to 28-237; Baldwin 6592, 6593, 6610.

²⁸ Acts 1901; Burns 28-201 to 28-206; Baldwin 6568 to 6573.

²⁹ Acts 1883, ch. 53, sec. 1. Acts 1899, ch. 95, sec. 1. Acts 1907; Burns 28-207, 28-208; Baldwin 6556, 6557. Board of County Comrs. v. Leslie (1878), 63 Ind. 492.

For other school fund records, see entries 88, 89, 275-277, 335-337, 339-343.

244. FORECLOSURES OF SCHOOL FUND PROCEEDINGS, 1936-. 1 f. b.

Original documents pertaining to school fund mortgage foreclosures, including mortgages, abstracts of title, appraisers' reports, insurance policies, certificates of sale, deeds and proofs of publication, showing dates of document and filing, names of principals, location and description of property, amount and number of mortgage, and conditions of document. Arr. chron. by dates of filing. No index. Hdw. and typed. 11 x 5 x 14. Aud. off.

245. [SCHOOL FUND INSURANCE], 1928-. 2 vols.

Record of insurance on improved property mortgaged to secure school fund loans, showing dates of policy, maturity and mortgage, names of insurance company, mortgagor and taxing unit, and amounts and numbers of policy and mortgage. Arr. chron. by dates of policies. No index. Hdw. 300 pp. 14 x 10 x 3. Aud. off.

XIV. TREASURER

LEGAL STATUS

The office of treasurer exists under the mandatory provisions of the Constitution of 1851, and has existed in Shelby County since its organization in 1822. The treasurer is elected for a 2-year term by the voters of the county.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ No person is eligible to hold the office more than 4 years in any 6-year period.⁴ The treasurer must be an elector of the county at the time of his election, must have been an inhabitant thereof during the preceding year,⁵ must reside within the county after his election, must not hold any other lucrative office,⁶

¹ Const. 1851, art. 6, sec. 2. *Gemmer v. State ex rel. Stephens* (1904), 163 Ind. 150, 71 N. E. 478. See the authorities cited in footnotes 21-27 herein.

² Const. 1851, art. 15, sec. 6. Rev. Stat. 1843, ch. 4, sec. 56. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3.

⁴ *Ibid.*, art. 6, sec. 2.

⁵ *Ibid.*, sec. 4. Rev. Stat. 1843, ch. 4, secs. 73, 74.

⁶ Const. 1851, art. 2, sec. 9; art. 6, sec. 6. Rev. Stat. 1843, ch. 4, secs. 61, 75.

and must not practice law.⁷ He must post an official bond, to be approved by the board of commissioners and filed with the clerk of the circuit court. The bond must be in an amount not less than the amount of money which may come into his hands at any time during his term, as determined by the board.⁸ The treasurer must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.⁹

The treasurer receives a regular salary of \$2,040 per year. In addition to his salary, he receives, as compensation for himself, 6 percent of all delinquent personal property taxes collected by him, plus a "demand fee" of 50 cents on each collection resulting from personal demand. From 1919 until 1933 he also received \$5 per day for each day actually served as a member of the board of review of Shelby County.¹⁰

For sufficient legal grounds the treasurer may be removed from office by the circuit court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹¹ If the treasurer is convicted of a felony the judgment of conviction must declare his office vacant.¹²

⁷ Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1905; Burns 10-3102; Baldwin 2636. *McCracken v. State* (1867), 27 Ind. 491.

⁸ Acts 1816-17, ch. 17, sec. 2. Acts 1817-18 (general), ch. 44, sec. 2. Rev. Laws 1824, ch. 23, sec. 1; ch. 86, secs. 18, 27. Rev. Laws 1831, ch. 21, sec. 1; ch. 81, secs. 17, 19. Rev. Stat. 1843, ch. 4, secs. 88, 92-100; ch. 27, secs. 71-73. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 49-123; Baldwin 13063. 1 Rev. Stat. 1852, Acts 1865, 1919; Burns 49-3101; Baldwin 5548. *Pepper v. State ex rel. Harvey* (1864), 22 Ind. 399.

⁹ Const. 1851, art. 15, sec. 4. Rev. Laws 1824, ch. 86, sec. 18. Rev. Laws 1831, ch. 81, sec. 17. Rev. Stat. 1843, ch. 4, secs. 77, 78, 81, 83, 84, 92; ch. 7, secs. 72, 73. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

¹⁰ Acts 1816-17, ch. 17, sec. 12. Acts 1817-18 (general), ch. 44, sec. 12. Rev. Laws 1824, ch. 23, sec. 7; ch. 86, sec. 24. Rev. Laws 1831, ch. 21, sec. 5; ch. 81, sec. 40. Rev. Stat. 1843, ch. 7, sec. 90; ch. 12, secs. 59, 71. Acts 1933; Burns 49-1001, 49-1004, 49-1016; Baldwin 7531, 7534, 7546. Acts 1932, 1937; Burns, 1939 suppl., 49-1006; Baldwin, 1937 suppl., 7536. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15700, 15703. *Town of Paoli v. Charles* (1905), 164 Ind. 690, 74 N. E. 508. *Opinions of the Attorney General of Indiana, 1934*, p. 313; 1936, p. 130.

¹¹ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1816-17, ch. 17, sec. 3. Acts 1817-18 (general), ch. 44, sec. 3. Rev. Laws 1824, ch. 23, sec. 2. Rev. Laws 1831, ch. 21, sec. 6. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹² Acts 1897, 1899; Burns 49-834; Baldwin 13050.

If the treasurer becomes officially delinquent and a suit is commenced on his official bond, he may be removed from office by the board of commissioners,¹³ but such removal is subject to review by the circuit court.¹⁴

Any vacancy in the office of treasurer is filled through appointment by the board of commissioners. The appointee must take oath and post bond, as was required of his predecessor, and holds office for the unexpired term and until his successor is elected and qualified.¹⁵

The treasurer may appoint deputies and assistants under authority from the board of commissioners. One deputy may be appointed without such authorization. The county council fixes the salaries of the deputies and assistants, which must be not less than \$75 nor more than \$200 per month.¹⁶ The treasurer may, at his own expense, employ other persons to collect delinquent personal property taxes by personal demand.¹⁷ The treasurer may require any deputy to give bond.¹⁸ The deputies must take the oath required of the treasurer, may perform all the official duties of the treasurer, and are subject to the same regulations and penalties.¹⁹ The treasurer may remove such deputies and assistants at any time, and is responsible for their official acts.²⁰

From the organization of Shelby County in 1822²¹ until 1841 a county treasurer was annually appointed by the board

¹³ Rev. Stat. 1843, ch. 7, sec. 87. 1 Rev. Stat. 1852; Burns 49-3115; Baldwin 5562.

¹⁴ 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277.

¹⁵ Const. 1851, art. 6, sec. 9. Acts 1816-17, ch. 17, sec. 3. Acts 1817-18 (general), ch. 44, sec. 3. Rev. Laws 1824, ch. 86, sec. 30. Rev. Laws 1831, ch. 81, sec. 37. Rev. Stat. 1843, ch. 4, secs. 136, 139, 160, 162, 163, 168, 169; ch. 7, secs. 74, 87. Rev. Stat. 1843, ch. 7, sec. 74. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. *Douglass v. State ex rel. Wright* (1869), 31 Ind. 429; *Beale v. State ex rel. Gray* (1874), 49 Ind. 41; *Weaver v. State ex rel. Sims* (1899), 152 Ind. 479, 53 N.E. 450. Interview of August 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹⁶ Rev. Laws 1831, ch. 81, secs. 17, 37. Rev. Stat. 1843, ch. 12, sec. 153. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532. *Opinions of the Attorney General of Indiana, 1934*, p. 256; 1937, p. 324.

¹⁷ Acts 1933, 1937; Burns, 1939 suppl., 49-1006; Baldwin, 1937 suppl., 7536.

¹⁸ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

¹⁹ Rev. Stat. 1843, ch. 4, sec. 85. 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109. *Lucas v. Shepherd* (1861), 16 Ind. 368.

²⁰ Rev. Stat. 1843, ch. 7, sec. 88; ch. 12, secs. 82, 153. 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

²¹ Acts 1821-22, ch. 31, secs. 1, 2.

doing county business.²² He received and disbursed county funds; received taxes collected by the sheriff (1822 to 1824) and tax collector (1824 to 1841); collected the fees charged for the licensing of taverns, shows, and vending of foreign merchandise; kept a separate account of receipts from fines, to be used to support county seminaries; and made annual settlements with the board.²³ Before 1824 the sheriff served as county tax collector;²⁴ and from 1824 to 1841 a county tax collector was appointed annually by the board.²⁵ The tax collector collected taxes (other than the license fees aforesaid); conducted tax sales; issued tax sale certificates and tax deeds; paid all collected funds over to the county treasurer and state treasurer; filed with the clerk of the circuit court a report concerning the sale of lands for delinquent taxes; and made and delivered to the clerk an alphabetical list of all white male persons over 21 years old residing in the county.²⁶ In 1841 the office of county tax collector was abolished and the duties of that office were transferred to the county treasurer. From 1841 until the adoption of the Constitution of 1851 (which made the treasurer a constitutional officer), the treasurer was elected for a 3-year term by the voters of the county.²⁷

²² Acts 1816-17, ch. 17, secs. 1, 2. Acts 1817-18 (general), ch. 44, secs. 1, 2. Rev. Laws 1821, ch. 23, sec. 1. Rev. Laws 1831, ch. 21, sec. 1.

²³ Acts 1816-17, ch. 8, sec. 22; ch. 10, sec. 13; ch. 17, secs. 1-11; ch. 19, secs. 7, 13, 15; ch. 23, sec. 5; ch. 27, sec. 1; ch. 69, sec. 23. Acts 1817-18 (special), ch. 2, sec. 1; ch. 4, sec. 1; ch. 36, sec. 2. Acts 1817-18 (general), ch. 4, sec. 3; ch. 13, sec. 30; ch. 14, secs. 4, 25; ch. 32, sec. 9; ch. 42, secs. 3, 12, 14, 18, 22, 23, 25; ch. 43, sec. 21; ch. 44, secs. 1-11; ch. 47, sec. 2; ch. 62, secs. 2, 3; ch. 72, sec. 2; ch. 77, sec. 5; ch. 79, sec. 1. Rev. Laws 1824, ch. 23, secs. 1-10; ch. 86, secs. 24, 25, 32, 36, 37. Rev. Laws 1831, ch. 20, secs. 15, 17; ch. 21, secs. 1-10; ch. 81, secs. 14, 29, 31, 38, 39, 45, 46, 50. Rev. Stat. 1838, ch. 21, secs. 15, 17.

²⁴ Acts 1816-17, ch. 8, sec. 23; ch. 19, secs. 7, 9-15; ch. 23, sec. 3; ch. 25, sec. 1. Acts 1817-18 (special), ch. 17, sec. 1; ch. 36, sec. 3. Acts 1817-18 (general), ch. 42, secs. 11, 14-19, 21, 23-27; ch. 44, secs. 4-11; ch. 72, secs. 2, 3; ch. 77, sec. 3; ch. 79, sec. 1.

²⁵ Rev. Laws 1824, ch. 86, secs. 18, 42. Rev. Laws 1831, ch. 81, secs. 17, 18.

²⁶ Rev. Laws 1824, ch. 23, secs. 6, 8, 11, 13; ch. 86, secs. 11-16, 19-28, 32, 34-37, 39-41, 45. Acts 1825, ch. 9, sec. 1. Acts 1829-30, ch. 9, sec. 5. Rev. Laws 1831, ch. 20, secs. 15, 18, 19; ch. 21, secs. 2-4, 10; ch. 81, secs. 14, 17-46, 51. Rev. Stat. 1838, ch. 81, secs. 18, 19.

²⁷ Const. 1851, art. 6, sec. 2. Acts 1840-41 (general), ch. 4, secs. 1, 13-22. Rev. Stat. 1843, ch. 4, sec. 18; ch. 7, secs. 70, 75-91; ch. 12, secs. 53-180. *Ham v. State ex rel. Williams* (1844) 7 Blackford 344.

FUNCTIONS AND RECORDS

The treasurer receives all moneys coming to the county, issues official receipts therefor, and disburses the same on warrants issued by the auditor. He countersigns the warrant and stamps thereon the name of the depository by which it is payable. He may pay the warrant out of funds in his office or require it to be presented to the depository for payment.²⁸ He collects taxes for the state and county and also for townships, cities, and towns in the county, as shown on the tax duplicate delivered to him by the auditor.²⁹ Polls and property omitted from the tax duplicate are reported by him to the auditor for assessment.³⁰ He sells real estate and personal property at public auction for delinquent taxes.³¹ He also collects corporate taxes,³² inheritance taxes,³³ and the excise tax on shares of stock and deposits of banks, trust companies,³⁴ and loan associations;³⁵ and sells intangible tax stamps for the state board of tax commissioners.³⁶

All public funds paid into the county treasury must be deposited by the treasurer daily in one or more depositories designated by the board of finance. The treasurer makes monthly reports to the board of finance showing the balance of funds at the end of the previous month—consistent with the statements furnished to the board by the depository;³⁷ makes quarterly reports to the board of commissioners and

²⁸ Rev. Stat. 1843, ch. 7, secs. 76-84, 91. Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5366. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. 1 Rev. Stat. 1852; Burns 49-3103, 49-3104, 49-3111; Baldwin 5550, 5551, 5558. Acts 1937; Burns, 1939 suppl., 61-627; Baldwin, 1937 suppl., 18844-48. State *ex rel.* Zable v. Benson (1880), 70 Ind. 481.

²⁹ Rev. Stat. 1843, ch. 7, sec. 86; ch. 12, secs. 53-55, 62, 67, 174. Acts 1897, ch. 54, sec. 1. Acts 1905; Burns 48-6701, 48-6702, 48-6705; Baldwin 11511 to 11513. Acts 1919; Burns 64-1408, 64-1502; Baldwin 15745, 15748. Standard Oil Co. v. Bretz (1884), 98 Ind. 231.

³⁰ Acts 1919; Burns 64-2102; Baldwin 15803.

³¹ Rev. Stat. 1843, ch. 7, sec. 89; ch. 12, secs. 56-67, 83-126. Acts 1932 (Spec. Sess.); Burns 64-1509, 64-1511; Baldwin 15752, 15754. Acts 1919, 1931; Burns 64-1701 to 64-1705, 64-2201, 64-2203 to 64-2211; Baldwin 15773 to 15782, 15806, 15808 to 15818. Acts 1919, 1931, 1937; Burns, 1939 suppl., 64-2202; Baldwin, 1937 suppl., 15807. Pay v. Shanks (1877), 56 Ind. 554.

³² Acts 1919; Burns 64-1801; Baldwin 15783.

³³ Acts 1931; Burns 6-2413; Baldwin 15951.

³⁴ Acts 1933; Burns 61-804; Baldwin 15585.

³⁵ Acts 1933; Burns 64-827; Baldwin 15608.

³⁶ Acts 1933; Burns 64-927; Baldwin 15925.

³⁷ Acts 1907; Burns 61-610; Baldwin 13814. Acts 1937; Burns, 1939 suppl., 61-624; Baldwin, 1937 suppl., 13844-45.

auditor showing the amount of money in the county treasury;³⁸ makes monthly reports to the auditor showing the total amount of cash payments received by him during the month and the respective accounts on which they were applied;³⁹ makes annual settlements with the board of commissioners in January;⁴⁰ makes semiannual settlements for taxes with the county auditor in May and November,⁴¹ and in accordance therewith pays to the state treasurer in June and December all money due for state purposes;⁴² and also makes requested payments to the state treasurer at other times.⁴³ He makes quarterly reports to the auditor showing specifically the amount of fees collected;⁴⁴ and deposits quarterly with the auditor all redeemed warrants.⁴⁵

The county treasurer is a member of the board of review, which meets annually for the purpose of reviewing property tax valuations.⁴⁶

The treasurer must keep his office, books, and papers in a fireproof building (if available) and his office must be open for transaction of business during business hours.⁴⁷ He must keep a cashbook wherein are entered daily, by item, all receipts of public funds. The book must be balanced daily, show funds on hand at the close of each day, and be open to public inspection.⁴⁸ He keeps records of all receipts and disbursements in a general account, and also in separate accounts for the separate appropriations and distinct funds.⁴⁹

³⁸ Acts 1891, ch. 194, sec. 125. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. Acts 1895, 1913; Burns 49-1403; Baldwin 7578. *Wolfe v. State ex rel. Kennard* (1883), 90 Ind. 16.

³⁹ Acts 1919; Burns 64-2101; Baldwin 15802.

⁴⁰ Rev. Stat. 1843, ch. 7, sec. 90. Acts 1899; Burns 26-531; Baldwin 5395. 1 Rev. Stat. 1852; Burns 49-3116; Baldwin 5563.

⁴¹ Rev. Stat. 1843, ch. 12, secs. 68, 154. Acts 1919; Burns 64-2501; Baldwin 15850.

⁴² Rev. Stat. 1843, ch. 12, secs. 68, 69. Acts 1919; Burns 64-2503, 64-2504; Baldwin 15852, 15853.

⁴³ Acts 1859, 1861; Burns 49-1813; Baldwin 15059. Acts 1937; Burns, 1939 suppl., 61-626; Baldwin, 1937 suppl., 13844-47.

⁴⁴ Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577.

⁴⁵ Rev. Stat. 1843, ch. 7, sec. 85. 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561.

⁴⁶ Acts 1891, ch. 99, sec. 114. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

⁴⁷ Rev. Stat. 1843, ch. 7, sec. 75. 1 Rev. Stat. 1852; Burns 49-3106; Baldwin 5553. Acts 1853; Burns 49-3107, 49-3108; Baldwin 5556, 5557.

⁴⁸ Acts 1937; Burns, 1939 suppl., 61-623; Baldwin, 1937 suppl., 13844-44.

⁴⁹ Acts 1841-42 (general), ch. 4, sec. 5. Rev. Stat. 1843, ch. 7, sec. 75. 1 Rev. Stat. 1852; Burns 49-3109; Baldwin 5554.

An "insolvent record" of dropped taxes, prepared by the auditor, is kept in the treasurer's office.⁵⁰

Forms for the following books have been prescribed for county treasurers by the state board of accounts: Daily balance of cash and depositories; record of warrants by depositories; ledger of receipts and disbursements; register of taxes collected; record of bids for bonds; and daily inventory of intangible tax stamps. This board has prescribed blank forms of monthly reports and various receipts.⁵¹

TAX COLLECTIONS

PERSONAL AND REAL PROPERTY

246. TAX DUPLICATE AND DELINQUENT LIST, 1877-. 814 vols. (dated).

Record compiled annually of all taxes payable, showing duplicate number, names of taxing unit and taxpayer, location and description of property, assessed valuation of personal property, real estate and improvements, amounts of taxes on personal property, real estate and improvements and polls, and amounts paid and returned delinquent. This is a combination of two records formerly kept separately: Tax Duplicate, entry 247; Delinquent List, entry 261. Arr. by taxing units, thereunder alph. by names of taxpayers. No index. Hdw. 300 pp. 18 x 24 x 2½. 646 vols., 1877-1929, bsmt. vt., B-6 and B-7; 168 vols., 1930- treas. off.

247. TAX DUPLICATE, 1841-76. 77 vols. (dated). 1877- in Tax Duplicate and Delinquent List, entry 246.

Record compiled annually of all taxes payable, showing duplicate number, names of taxing units and taxpayer, location and description of property, assessed valuation of personal property, real estate and improvements, amounts of taxes on personal property, real property and polls, and amount paid. Arr. by taxing units, thereunder alph. by names of taxpayers. No index. Hdw. 300 pp. 18 x 23 x 2½. Bsmt. vt., B-6 and B-7.

248. TAX STATEMENTS, 1908-. 4 f. b.

Statements of taxes payable, showing date of statement, duplicate number, names of taxing unit and taxpayer, amounts of first and second installments and delinquents, and total amount of taxes due. Arr. alph. by names of taxpayers. No index. Hdw. 4 x 8 x 12. Treas. vt.

⁵⁰ Acts 1919; Burns 64-2801; Baldwin 15864.

⁵¹ Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

249. REGISTER OF TAXES COLLECTED, 1911-. 14 vols. Title varies: Cash Book, 1911-31, 9 vols. 1881-1910 in Record of Receipts, entry 270.

Record of receipts of tax payments, showing date, number and amount of receipt, kind of tax, and names of taxpayer. Arr. chron. by dates of receipts. No index. Hdw. 450 pp. 18 x 14 x 4. 9 vols., 1911-31, bsmt. vt., B-6; 5 vols., 1932-, treas. off.

250. TAX RECEIPT, 1854-. 2,117 vols. (labeled by years). Stubs and duplicates of tax receipts issued for tax payments, showing date of receipt and installment, names of taxing unit and taxpayer, amount of real estate, personal and poll taxes due and paid, location and description of property, and receipt and duplicate numbers. Arr. num. by receipt nos. No index. Hdw. 10 x 8 x 2. 1,026 vols., 1854-1900, bsmt. vt., B-7; 688 vols., 1901-32, bsmt. vt., B-6; 403 vols., 1933-, treas. vt.

251. [COLLECTOR'S BOOK OF ACCOUNTS], 1823-36. 1 vol. Discontinued.

Daily record of taxes collected and returned to treasurer by collector, showing dates and amounts of installment, collection and settlement, names of taxpayer and taxing unit, and location and description of property. Arr. chron. by dates of collections. No index. Hdw. 75 pp. 12 x 9 x 1. Bsmt. vt., B-7.

INHERITANCE AND INTANGIBLE (for inheritance, see also entries 97, 199; intangible, see also entry 283)

252. [INHERITANCE TAX RECEIPTS], 1914-. 3 vols.

Stubs and duplicates of receipts for payment of inheritance tax, showing dates of decedent's death and receipt, names of decedent, payer, and legatees, amounts of tax, interest and discount, cause and receipt numbers, and amount of payment. Arr. num. by receipt nos. No index. Hdw. 550 pp. 10 x 18 x 2. Treas. off.

253. INTANGIBLE TAX STAMP SALES RECORD, 1933-. 2 vols. Daily record of sales of intangible tax stamps, showing date of sale, number of stamps on hand at commencing and close of day, number sold, denominations of stamps, and value of stamps sold. Arr. chron. by dates of sales. No index. Hdw. 50 pp. 10 x 10 x 1. Treas. off.

254. [INTANGIBLE TAX REPORTS], 1933-. 1 f.d.

Copies of treasurer's monthly reports to state board of tax commissioners. of sales of intangible tax stamps, showing dates of report and consignment, number of stamps on hand

on first and last day of month, number sold, denominations of stamps, and consignment number. Arr. chron. by dates of reports. No index. Typed. 4 x 16 x 20. Treas. off.

255. MONTHLY TAX REPORTS, 1936-. 2 f. b.

Monthly reports of excise tax returns, showing dates of report and payment, name of bank or building and loan association, amounts of tax and payment, itemized tax schedule, and receipt number. Arr. chron. by dates of reports. No index. Hdw. 11 x 5 x 14. Aud. off.

PUBLIC IMPROVEMENTS (see also entries 19-21, 314-317, 425-435)

256. GRAVEL ROAD TAX DUPLICATE, 1866, 1868-72, 1874, 1877, 1887. 10 vols. (dated).

Record of assessments for construction and maintenance of gravel roads, showing duplicate number, names of property owner and road, location and description of property, and amounts of assessment, payment, delinquency, penalty and interest. Arr. by taxing units, thereunder alph. by names of property owners. No index. Hdw. 175 pp. 18 x 14 x 2. 6 vols., 1866, 1868, 1870, 1872, 1877, 1887, bsmt. vt., B-7; 4 vols., 1869, 1871, 1874, bsmt. vt., B-6.

257. DITCH TAX DUPLICATE, 1897. 1 vol.

Record of assessments for construction and maintenance of ditches, showing duplicate number, names of property owner and ditch, location and description of property and ditch, and amounts of assessments, payments and delinquencies. Arr. by names of ditches, thereunder num. by duplicate nos. No index. Hdw. 175 pp. 17 x 19 x 2. Bsmt. vt., B-6.

258. ROAD RECEIPTS, 1870-1911. 7 vols. Discontinued.

Record of receipts issued for work performed on roads in lieu of tax payments, showing date and amount of receipt, names of taxpayer, road and taxing unit, and receipt and tax duplicate numbers. Arr. num. by receipt nos. No index. Hdw. 300 pp. 18 x 14 x 3. 6 vols., 1870-89, 1897-1911, bsmt. vt., B-6; 1 vol., 1890-96, bsmt. vt., B-7.

DELINQUENT AND ERRONEOUS

259. RECORD OF INSOLVENT AND DISCHARGED TAXES, 1857-. 6 vols. (four vols. not labeled, 5, 6). Title varies: Record of Doubtful Taxes, 1857-73, 1 vol.

Record of delinquent taxes removed from tax duplicate as uncollectable, showing dates delinquent and removed from tax duplicate, names of taxpayer and taxing unit, duplicate number, amount of assessment, number of polls and male and

male dogs, and amount of tax dropped. Arr. chron. by dates taxes dropped. No index. Hdw. 350 pp. 18 x 12 x 3. 3 vols., 1857-1901, bsmt. vt., B-6; 2 vols., 1902-30, treas. vt.; 1 vol., 1931-, treas. off.

260. MORATORIUM TAX DUPLICATE, 1934-. 1 vol.

Record of collection of delinquent taxes on deferred payment plan, showing duplicate number, names of taxing unit and taxpayer, location and description of property, schedule of installments, total amount of delinquent, and dates of payments. Arr. by taxing units, thereunder num. by duplicate nos. Hdw. 300 pp. 18 x 14 x 2. Treas. off.

261. DELINQUENT LIST, 1841-76. 41 vols. (dated). 1877-

in Tax Duplicate and Delinquent List, entry 246.

Record of delinquent taxes, showing name of property owner, location and description of property, name of taxing unit, assessed valuation of real and personal property, amount of poll tax, amounts of delinquencies for previous and current years, penalty and interest, and total amount of taxes due. Arr. by taxing units, thereunder alph. by names of property owners. No index. Hdw. 200 pp. 18 x 12 x 2. Bsmt. vt., B-6 and B-7.

262. [CERTIFICATES OF ERROR], 1920-. 2 f. d.

Auditor's certificates to treasurer for correction of tax duplicate on taxes erroneously charged, showing date of certificate, duplicate number, names of taxpayer and taxing unit, location and description of property, and correct amount of tax. Arr. chron. by dates of certificates. No index. Typed. 6 x 18 x 18. Treas. vt.

RECEIPTS AND DISBURSEMENTS

(See also entries 286-317)

GENERAL FUND

263. DAILY BALANCE CASH AND DEPOSITORIES, 1913-. 5 vols.

Title varies: Depository and Daily Balance, 1913-32, 2 vols.

Record of daily cash receipts, disbursements and depository balances, showing date of balance, names of depositories, amount of receipts of taxes and other sources, amount of disbursements, summary of cash, balance in depositories, deposits for day, withdrawals, and balance at close of day. Arr. chron. by dates of balances. No index. Hdw. 600 pp. 18 x 12 x 2. 2 vols., 1913-June 1932, bsmt. vt., B-6; 3 vols., July 1932-, treas. vt.

264. MONTHLY BALANCES, 1912-. 4 vols. (1-4).

Record of monthly financial statements of receipts, disbursements and balances of county and miscellaneous funds, showing date of statement, name of fund, amounts of previous and current receipts, disbursements and balances, and monthly totals. Arr. chron. by dates of statements. No index. Hdw. 250 pp. 18 x 14 x 1. 1 vol., 1912-20, bsmt. vt., B-6; 3 vols., 1921-, treas. vt.

265. REGISTER OF WARRANTS BY DEPOSITORIES, 1911-25, 1932-.
8 vols. (1-4, 1, three vols. not labeled). Title varies: Disbursements on Auditor's Warrants, 1911-25, 6 vols.

Register of warrants drawn on depositories of county funds, showing date, amount and number of warrant, date of redemption, names of depository and fund, and total warrants drawn. 1911-25, arr. by depositories, thereunder chron. by dates of warrants; 1932-, arr. chron. by dates of warrants. No index. Hdw. 500 pp. 18 x 12 x 3. 4 vols., 1911-June 1920, bsmt. vt., B-6; 2 vols., July 1920-25, bsmt. vt., B-7; 2 vols., 1932-, treas. vt.

266. BANK RECONCILEMENT SHEETS, 1914-. 3 f. b.

Monthly statements of withdrawals and deposits submitted by depositories, showing date of statement, name of depository, dates and amounts of deposits and withdrawals, total deposits and withdrawals, monthly balance, interest due on minimum balance, and warrant numbers. Arr. chron. by dates of statements. No index. Typed. 11 x 5 x 14. Treas. vt.

267. TREASURER'S BLOTTER BOOK, 1872-. 54 vols. (twenty four vols. not labeled, 2, 2-4, 6-31). Title varies: Blotter, 1872-79, 3 vols.; Book, 1880-82, 3 vols.; Treasurer's Cash Blotter, 1883, 1 vol.; no title, 1885-92, 1898, 1899, 1918-20, 7 vols.

Record of daily entries of money transactions pending transfer to permanent records, showing date of transaction, and amounts of payment, money received and change returned. Arr. chron. by dates of transactions. No index. Hdw. 300 pp. 16 x 11 x 2. 44 vols., 1872-1931, bsmt. vt., B-6; 10 vols., 1932-, treas. off.

268. DAILY STATEMENT, 1889-. 72 vols. Title varies:
Daily Balance, 1889-94, 1899-1903, 19 vols.

Daily statements of receipts and disbursements and cash on hand and in depositories, showing date of statement, name of depository, amounts of deposits, withdrawals and balances, cash on hand at beginning and close of day, and total cash on hand and in depositories. Arr. chron. by dates of statements.

No index. Hdw. 100 pp. 14 x 9 x 1. 57 vols., 1889-1935, bsmt. vt., B-6; 11 vols., 1936-38, treas. vt.; 4 vols., 1939-, treas. off.

269. RECEIPTS AND DISBURSEMENTS, 1858-66, 1885-89, 1925-. 4 vols. Title varies: Journal, 1858-66, 1 vol.; Experts Journal, 1885-89, 1 vol.

Record of receipts and disbursements of county revenue, showing date, amount and nature of receipt or disbursement, names of payer or payee and fund, and receipt or warrant number. This is a combination of two records intercurrently kept separately: Record of Receipts, entry 270; Register of Disbursements, entry 271. Arr. by names of fund, thereunder chron. by dates of receipts and disbursements. No index. Hdw. 600 pp. 18 x 16 x 3. 2 vols., 1858-66, 1885-89, bsmt. vt., B-6; 2 vols., 1925-, treas. vt.

270. RECORD OF RECEIPTS, 1881-1924. 38 vols. Title varies: Cash Book, 1881-1910, 35 vols.; Record of Receipts Other Than Taxes, 1911-15, 1 vol. 1925- in Receipts and Disbursements, entry 269.

Record of receipts of county revenue, showing date, number and amount of receipt, and names of payer and fund. Also contains: Register of Taxes Collected, 1881-1910, entry 249. Arr. chron. by dates of receipts. No index. Hdw. 350 pp. 18 x 24 x 2. Bsmt. vt., B-6.

271. REGISTER OF DISBURSEMENTS, 1822-54, 1865-66, 1911-15, 1920-24. 7 vols. (four vols. not labeled, 1, 5, 6). Title varies: Record Book, 1822-41, 1 vol.; Record of Appropriation and Disbursement, 1911-15, 1 vol.; no title, 1842-54, 1865-66, 3 vols. 1925- in Receipts and Disbursements, entry 269.

Record of disbursement of county revenue, showing date and amount of disbursement, names of payee and fund, and warrant number. Arr. by names of fund, thereunder chron. by dates of disbursements. Hdw. 600 pp. 18 x 18 x 3. Bsmt. vt., B-6.

272. CONDENSED LEDGER, 1858-1910. 5 vols. Title varies: Ledger, 1858-66, 1 vol.; Record of Condensed Ledger and Report, 1867-84, 2 vols. Record of Receipts and Disbursements, 1885-98, 1 vol. Discontinued.

Recapitulation of daily receipts and disbursements, showing date of recapitulation, and amounts of receipts and disbursements debited and credited to each kind of fund. Arr. chron. by dates of recapitulations. No index. Hdw. 350 pp. 18 x 24 x 2. Bsmt. vt., B-6.

273. [WARRANTS], 1910-. 10 f. b.

Copies of auditor's warrants, showing date, number and amount of warrant, appropriation number, and names of payee, depository and fund. Arr. num. by warrant nos. No index. Typed. 11 x 5 x 14. 6 f. b., 1910-34, bsmt. vt., B-6; 4 f. b., 1935-, treas. vt.

274. QUIETUS, 1922-. 3 f. b.

Receipts issued by auditor of state for revenue paid to state by county treasurer, showing date, number and amount of receipt, and name of fund. Arr. chron. by dates of receipts. No index. Hdw. 11 x 5 x 14. Treas. vt.

SCHOOL FUNDS (see also entries 88, 89, 243-245, 335-337, 339-348)

275. REGISTER OF PRINCIPAL AND INTEREST COMMON SCHOOL FUND, 1838-Sept. 16, 1926. 2 vols.

Record of payments of principal and interest on common school fund loans, showing loan number, name of mortgagor, amount of mortgage, and dates of payments of interest installments and principal. Also contains: Register of Principal and Interest Congressional Funds, Oct. 12, 1904-Sept. 16, 1926, entry 276. Arr. num. by mortgage nos. No index. Hdw. 325 pp. 18 x 12 x 3. Bsmt. vt., B-6.

276. REGISTER OF PRINCIPAL AND INTEREST CONGRESSIONAL FUNDS, 1839-Oct. 11, 1904. 3 vols. Oct. 12, 1904-Sept. 16, 1926 in Register of Principal and Interest Common School Fund, entry 275.

Record of payments of principal and interest on Congressional school fund loans, showing same information as in entry 275. Arr. num. by mortgage nos. No index. Hdw. 325 pp. 18 x 12 x 3. Bsmt. vt., B-6.

277. [MISCELLANEOUS SCHOOL FUND ACCOUNTS], June 11, 1879-May 16, 1902. 1 vol.

Record of payments of principal and interest on miscellaneous school fund loans, showing same information as in entry 275. Arr. num. by loan nos. Indexed alph. by names of mortgagors. Hdw. 109 pp. 18 x 12 x 1. Bsmt. vt., B-6.

AUDITS

278. FIELD EXAMINERS' REPORT, 1912-. 1 f. b.

Copies of field examiners' reports on audits of treasurer's accounts, showing dates of report and audit, names of examiners, financial condition of accounts, and recommendations. Arr. chron. by dates of reports. No index. Hdw. 4 x 8 x 12. Treas. vt.

XV. AUDITOR

LEGAL STATUS

The office of auditor exists under the mandatory provisions of the Constitution of 1851, and has existed in Shelby County since 1841. The auditor is elected for a 4-year term by the voters of the county.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ No person is eligible to hold the office more than 8 years in any 12 year period.⁴ The auditor must be an elector of the county at the time of his election, must have been an inhabitant thereof during the preceding year,⁵ must reside within the county after his election, must not hold any other lucrative office, and must not practice law.⁶ He must post bond in the amount of \$10,000, to be approved by the board of commissioners and filed with the clerk of the circuit court.⁷ The auditor must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.⁸

The auditor receives a regular salary of \$2,400 per year.⁹ In addition to his regular salary he receives \$125 per year for services rendered for the city of Shelbyville; and from 1907 to 1932, and in 1935 and 1936, he also received \$50 per year for acting as secretary of the board of finance of Shelby County; and from 1919 until 1933 he also received \$5 for each day actually served as a member of the board of review.¹⁰

¹ Const. 1851, art. 6, sec. 2. 1 Rev. Stat. 1852; Burns 49-3001; Baldwin 5415. See the authorities cited below in note 19.

² Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3. 1 Rev. Stat. 1852; Burns 49-3001; Baldwin 5415. Griebel v. State *ex rel.* Niezer (1887), 111 Ind. 369, 12 N. E. 700.

⁴ Const. 1851, art. 6, sec. 2.

⁵ *Ibid.*, sec. 4. State *ex rel.* Jeffries v. Kilroy (1882), 86 Ind. 118.

⁶ Const. 1851, art. 2, sec. 9; art. 6, sec. 6. Acts 1905; Burns 10-3102; Baldwin 2636. State v. Allen (1863), 21 Ind. 516; Wells v. State *ex rel.* Peden (1911), 175 Ind. 380, 94 N. E. 321.

⁷ Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1889; Burns 49-3003; Baldwin 5417.

⁸ Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

⁹ Acts 1933; Burns 49-1004; Baldwin 7534.

¹⁰ Acts 1907, ch. 222, sec. 7 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1935, ch. 70, sec. 7 (repealed by Acts 1937, ch. 3, sec. 42). Acts 1933; Burns 48-1229, 49-1001, 49-1004; Baldwin 11410, 7531, 7534. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15700, 15703.

He is not entitled to retain, as compensation for himself, any fees collected by him.¹¹

For sufficient legal grounds the auditor may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹² If the auditor is convicted of a felony the judgment of conviction must declare the office vacant.¹³

Any vacancy in the office of auditor is filled through appointment by the board of commissioners. At the next biennial general election (held on the first Tuesday after the 1st Monday in November in the even-numbered years), an auditor is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor; and he holds office until his successor is elected and qualified.¹⁴

The auditor may appoint deputies and assistants under authority from the board of commissioners. One deputy may be appointed without such authorization. The county council fixes the salaries of the deputies and assistants, which must be not less than \$75 nor more than \$200 per month.¹⁵ The auditor may require any deputy to give bond.¹⁶ The deputies must take the oath required of the auditor, may perform all the official duties of the auditor, and are subject to the same regulations and penalties.¹⁷ The auditor may remove

Opinions of the Attorney General of Indiana, 1934, p. 313; 1936, p. 130. Board of County Comrs. v. Johnson (1891), 127 Ind. 236, 26 N.E.821; Tucker v. State *ex rel.* Board of County Comrs. (1904), 163 Ind. 403, 71 N. E. 140.

¹¹ Acts 1933; Burns 49-1005; Baldwin 7535. *Workman v. State ex rel.* Board of County Comrs. (1905), 165 Ind. 42, 73 N. E. 917.

¹² Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13059, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹³ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁴ Const. 1851, art. 6, sec. 9. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. *Douglass v. State ex rel.* Wright (1869), 31 Ind. 429. Interview of July 11, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹⁵ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532. *Opinions of the Attorney General of Indiana, 1934*, p. 256; 1937, p. 324.

¹⁶ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

¹⁷ 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

such deputies and assistants at any time and is responsible for their official acts.¹⁸

The office of auditor was created in Shelby County by an act of 1841 and became a constitutional office when the Constitution of 1851 was adopted. Under the act of 1841 the auditor was elected by the voters of the county for a 5-year term.¹⁹

Most of the early duties of the auditor were transferred to him from the clerk of the circuit court,²⁰ and included the clerk's previous duties as clerk of the board doing county business,²¹ as member of the boards performing duties similar to those of the present county board of review,²² and duties concerning elections,²³ taxation, finance, county business,²⁴ and selection of petit jurors and grand jurors.²⁵

From 1822 to 1852 Shelby County had a county agent, appointed by the board doing county business. He performed various duties concerning county business, as required by the board, including the collection of donations for the county, purchase of land, equipment, and supplies, the sale of county property and collection of the purchase price thereof, and

¹⁸ 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

¹⁹ Const. 1851, art. 6, sec. 2. Acts 1840-41 (general), ch. 2, sec. 1. *Jones v. Cavins* (1853), 4 Ind. 305.

²⁰ *Jones v. Cavins* (1853), 4 Ind. 305.

²¹ Acts 1816-17, ch. 15, sec. 6. Rev. Laws 1824, ch. 15, sec. 5; ch. 16, sec. 6. Rev. Laws 1831, ch. 20, sec. 6. Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53.

²² Acts 1817-18 (general), ch. 42, sec. 12. Rev. Laws 1824, ch. 86, sec. 7. Acts 1825, ch. 47, sec. 3. Rev. Laws 1831, ch. 81, secs. 5, 7, 8. Acts 1838-39 (general), ch. 14, secs. 14, 15.

²³ Acts 1816-17, ch. 9, secs. 12-14, 16, 19; ch. 14, sec. 4. Rev. Stat. 1838, ch. 32, secs. 18, 19. Acts 1834-35 (general), ch. 43, sec. 1. Acts 1841-42 (general), ch. 45, sec. 3. Rev. Stat. 1843, ch. 5, sec. 103. Acts 1875, ch. 7, sec. 1. Acts 1881 (Spec. Sess.), ch. 47, sec. 13. Acts 1908 (Spec. Sess.), ch. 2, sec. 1. Acts 1911, ch. 7, sec. 5; ch. 150, secs. 5, 13 (both sections repealed by Acts 1913, ch. 185, sec. 25).

²⁴ Acts 1815, ch. 5, secs. 5, 13, 17; ch. 10, secs. 1-3. Rev. Laws 1824, ch. 23, sec. 6; ch. 86, secs. 7, 10, 11, 17, 19, 29, 36, 41. Acts 1825, ch. 49, sec. 2. Acts 1825-26, ch. 58, sec. 2. Acts 1829-30, ch. 9, sec. 1. Acts 1831-32, ch. 174, sec. 1. Acts 1834-35 (general), ch. 10, sec. 5; ch. 11, secs. 5, 18. Rev. Stat. 1838, ch. 91, sec. 26; ch. 95, sec. 1. Acts 1840-41 (general), ch. 2, sec. 54.

²⁵ Acts 1841-42 (general), ch. 45, sec. 6. 2 Rev. Stat. 1852, pt. 1, ch. 9, sec. 1, p. 24. Acts 1853, ch. 59, sec. 1. These duties were discontinued in 1881. Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3304, 4-3306; Baldwin 1266, 1267, 1270.

the making of contracts for public improvements. Originally he was appointed for an indefinite term. From 1843 until 1852 he was appointed for a 3-year term. In 1852 his office was abolished and his duties were transferred to the auditor.²⁶

FUNCTIONS AND RECORDS

The auditor is the financial agent of the county and the routine administration of county affairs centers in his office, through which all financial transactions are conducted.

Claims against the county (for consideration by the board of commissioners) are filed with the auditor and presented by him to the board of commissioners.²⁷ He makes certificates showing claimant's compliance with his contract.²⁸ He publishes all such claims and allowances thereon and also all allowances against the county made by courts.²⁹ On appeals from decisions of the board of commissioners, the auditor approves the appeal bond, prepares the transcript of proceedings, and transmits the bond, transcript, and all documents to the reviewing court.³⁰

Funds in the county treasury are disbursed on warrants drawn by the auditor on the county treasurer.³¹ The auditor publishes a call for redemption of interest-bearing warrants, when money is available therefor.³² Treasurer's receipts for payments other than for taxes are deposited by the payers with the auditor, who issues quietuses therefor.³³ All redeemed warrants are deposited quarterly by the treasurer with the auditor, for permanent filing.³⁴

²⁶ Acts 1817-18 (special), ch. 1, sec. 2; ch. 2, sec. 1. Rev. Laws 1824, ch. 93, secs. 1, 2, 4, 6, 8, 9. Acts 1841-42 (general), ch. 67, sec. 2. Rev. Stat. 1843, ch. 4, sec. 48. Acts 1851-52, ch. 2.

²⁷ Acts 1879 (Spec. Sess.); Burns 26-805.

²⁸ Acts 1899; Burns 26-538; Baldwin 5403.

²⁹ Acts 1875, ch. 18, sec. 1. Acts 1899; Burns 26-816; Baldwin 5268. Acts 1931; Burns 26-817 to 26-819; Baldwin 5269 to 5271. *Cheney v. State ex rel. Risk* (1905), 165 Ind. 121, 74 N. E. 692.

³⁰ 1 Rev. Stat. 1852; Burns 26-902, 26-903; Baldwin 5278, 5279. *Scotten v. Divilbiss* (1874), 46 Ind. 301; *Shirk v. Moore* (1884), 96 Ind. 199; *Strebin v. Lavengood* (1904), 163 Ind. 478, 71 N. E. 494; *Smith v. Gustin* (1907), 169 Ind. 42, 81 N. E. 722.

³¹ 1 Rev. Stat. 1843, ch. 7, secs. 76, 79. Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386. Acts 1889; Burns 49-3007; Baldwin 5420. 1 Rev. Stat. 1852; Burns 49-3103, 49-3111; Baldwin 5550, 5558. Acts 1937; Burns, 1939 suppl., 61-627; Baldwin, 1937 suppl., 13844-48.

³² Acts 1889; Burns 49-3007, 49-3008; Baldwin 5420, 5421.

³³ Rev. Stat. 1843, ch. 7, sec. 77. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. 1 Rev. Stat. 1852; Burns 49-3010, 49-3104; Baldwin 5423, 5551.

³⁴ Rev. Stat. 1843, ch. 7, sec. 85. 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561.

When the auditor draws a warrant he charges it against the appropriation and particular fund under which it was drawn. Apportionment is made if more than one fund or appropriation is involved.³⁵ Records of the warrants are kept in the manner prescribed by the state board of accounts. Formerly the number, date, amount, name of payee, and purpose of the warrant were entered in a book as prescribed by statute.³⁶ The auditor examines and settles all accounts and demands chargeable against the county which no law requires to be settled and allowed by some other tribunal or person.³⁷ Before issuing a warrant or quietus the auditor must examine the account to ascertain whether it is correct and in proper form; and for this purpose may require the furnishing of information, vouchers, and exhibits sufficient to satisfy himself.³⁸ The action of mandamus lies to compel the auditor to draw a warrant on the county treasury.³⁹

On claims allowed by courts for cost of administration of justice,⁴⁰ and on claims (including claims on judgments) allowed by the board of commissioners, the auditor issues his warrant.⁴¹ But a warrant may be issued to pay a judgment, or for management of the school fund, or insanity inquests, or salaries or other liabilities for specific amounts fixed by law, when no claim therefor has been allowed as aforesaid.⁴² A warrant not called for within 5 years after the allowance of the claim on which it was drawn may be

³⁵ Acts 1899; Burns 26-544; Baldwin 5409.

³⁶ 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. Acts 1909; Burns 60-202; Baldwin 13855.
Interview of August 15, 1939 with E. P. Brennan, state examiner.

³⁷ Rev. Stat. 1843, ch. 7, sec. 56. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419.

³⁸ Acts 1909; Burns 60-215; Baldwin 13866.

³⁹ Gill v. State *ex rel.* Board of County Comrs. (1880), 72 Ind. 266.

⁴⁰ Acts 1921, 1935; Burns, 1939 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1881 (Spec. Sess.), 1903, 1913, 1927, 1933; Burns 4-3319, 4-3407; Baldwin 1277, 1286. Acts 1921, 1939; Burns, 1939 suppl., 4-3507; Baldwin, 1939 suppl., 1293-1. Acts 1893; Burns 4-3511; Baldwin 1300. Acts 1905; Burns 9-1312 to 9-1315; Baldwin 2233 to 2236. 1 Rev. Stat. 1852; Burns 9-2408, Baldwin 1306. Acts 1899; Burns 26-515, 26-527, 26-816; Baldwin 5379, 5391, 5263. Acts 1931; Burns 26-817, 26-818; Baldwin 5269, 5270. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. Acts 1879 (Spec. Sess.); Burns 49-1432, 49-1434; Baldwin 13127, 13128. 2 Rev. Stat. 1352; Burns 49-2709, 49-2804; Baldwin 1436, 5496.

⁴¹ Rev. Stat. 1343, ch. 7, secs. 76, 79. Acts 1897; Burns 26-809; Baldwin 5257. Acts 1911; Burns 26-813, 26-814; Baldwin 5264, 5265.

⁴² Acts 1897; Burns 26-809; Baldwin 5257. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419.
Blue v. State *ex rel.* Powell (1936), 210 Ind. 486, 1 N. E. (2d) 122.

canceled by the board of commissioners, if not called for after publication of notice.⁴⁸

The auditor is clerk of the board of commissioners,⁴⁴ the county council,⁴⁵ and the county board of tax adjustment,⁴⁶ and is secretary of the board of finances.⁴⁷ He is also a member and secretary of the county board of review,⁴⁸ and a member of the county school fund board.⁴⁹ From 1841 to 1890 he was a member of the boards performing duties analogous to those of the present county board of review.⁵⁰ Formerly the auditor was a member of the election board under the local option liquor laws,⁵¹ and was clerk of the old-age pension board.⁵²

The township trustees quadrennially meet in the office of the auditor for the purpose of electing a county superintendent of schools. After notice given by the auditor, the trustees meet there at any time to fill a vacancy in such office. The auditor is clerk of the election and keeps a record thereof. In case of a tie vote the auditor casts the deciding vote. The person elected files his oath of office and official bond with the auditor, who approves the bond. The auditor reports the election to the state superintendent of public instruction.⁵³

⁴⁸ Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

⁴⁴ Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53. Acts 1855, ch. 37, sec. 1. 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418.

⁴⁵ Acts 1859; Burns 26-509; Baldwin 5373.

⁴⁶ Acts 1932 (Spec. Sess.), ch. 10, sec. 4. Acts 1933, ch. 237, sec. 4. Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

⁴⁷ Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

⁴⁸ Acts 1891, ch. 99, secs. 114, 116. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

⁴⁹ Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558.

⁵⁰ Acts 1838-39 (general), ch. 14, secs. 14, 15. Acts 1840-41 (general), ch. 1, secs. 13, 18. 1 Rev. Stat. 1852, ch. 6, sec. 91; ch. 35, sec. 2. Acts 1872 (Spec. Sess.), ch. 37, secs. 150, 277, 278. Acts 1877, ch. 89, sec. 1. Acts 1881 (Spec. Sess.), ch. 96, sec. 129.

⁵¹ Acts 1908 (Spec. Sess.), ch. 2, sec. 5. Acts 1911, ch. 7, sec. 5. Kunkle v. Coleman (1910), 174 Ind. 315, 92 N. E. 61.

⁵² Acts 1933, ch. 36, secs. 2, 9, 12 (all repealed by Acts 1936 (Spec. Sess.), ch. 3, sec. 129).

⁵³ Acts 1873, ch. 25, sec. 2. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. State ex rel. Nebecker v. Sutton (1884), 99 Ind. 300; State ex rel. Laughlin v. Porter (1888), 113 Ind. 79, 14 N. E. 883; State ex rel. Williams v. Edwards (1888), 114 Ind. 581, 16 N. E. 627; State ex rel. Drummond v. Dillon (1890), 125 Ind. 65, 25 N. E. 136; State ex rel. Morris v. McFarland (1898), 149 Ind. 266, 49 N. E. 5.

If on account of death, sickness, or other casualty the judge of the circuit court fails for 3 consecutive days to attend court during termtime, the auditor, sheriff, and clerk of the circuit court, acting together, may appoint a temporary judge to serve until the return of the regular judge or until his successor is named.⁵⁴

Vacancies in the former office of real estate appraiser were filled through appointment by the auditor.⁵⁵

When an election is held to change the boundaries of counties, the clerk of the circuit court of each of the affected counties makes out certified copies of the election returns and files them in the office of the auditor of each of such counties. The auditor and board of commissioners in each county then examine the returns, and if the proposed change of boundaries was carried at the election, the auditor enters an order to that effect in the order book of the board of commissioners.⁵⁶ The auditor makes a certificate of tax levies for the purpose of raising funds from the detached territory to pay the debts of the county from which it was detached.⁵⁷

Under former laws the auditor delivered to the clerk of the circuit court the various papers involved in election contests heard by the board of commissioners, together with a transcript of the proceedings of the board;⁵⁸ he prepared blank forms of poll books and election returns, and delivered them to the inspectors of the election precincts;⁵⁹ after registration was required, he delivered the election supplies to the registration inspector of each precinct;⁶⁰ he kept the completed registration books and forms in his office, open to public inspection;⁶¹ and he filed in his office petitions for elections under the local option liquor laws.⁶²

Certified copies of the official oaths of all officers appointed by the board of commissioners, together with certified

⁵⁴ Acts 1881 (Spec. Sess.); Burns 4-3103; Baldwin 1261.

⁵⁵ Acts 1858 (Spec. Sess.), ch. 2, sec. 1.

⁵⁶ Acts 1875; Burns 26-201; Baldwin 5032.

⁵⁷ Acts 1875; Burns 26-204, 26-205; Baldwin 5035, 5036.

⁵⁸ Acts 1816-17, ch. 9, sec. 22. Rev. Laws 1831, ch. 33, secs. 8, 9. Rev. Stat. 1843, ch. 5, sec. 103.

⁵⁹ Acts 1881 (Spec. Sess.), ch. 47, sec. 13.

⁶⁰ Acts 1911, ch. 150, sec. 5 (repealed by Acts 1913, ch. 185, sec. 25).

⁶¹ Acts 1911, ch. 150, sec. 13 (repealed by Acts 1913, ch. 185, sec. 25).

⁶² Acts 1903 (Spec. Sess.), ch. 2, sec. 1. Acts 1911, ch. 7, sec. 5.

copies of oaths of such township officers (except justices and constables) as required by the board, are filed with the auditor.⁶³ When a bond is required of such officers, it also is filed with the auditor.⁶⁴ The board of commissioners meets in the office of the auditor, at any time without notice or precept, for the purpose of approving official bonds which are required to be approved by the board.⁶⁵ The official bond of the county assessor is approved by and filed with the auditor; and the assessor's official oath is administered by the auditor and endorsed on said bond.⁶⁶ The official bonds of all township trustees are approved by the auditor.⁶⁷

The auditor and his deputies can administer all oaths necessary in the performance of their duties.⁶⁸

Formerly petitions to have the surveyor removed from office were filed with the auditor for presentment to the board of commissioners.⁶⁹

Once every 6 years the township trustees and their assistants enumerate all white male inhabitants of the state over 21 years old.⁷⁰ Books and blanks, together with copies of the law requiring such enumerations, are furnished to the township trustees by the auditor.⁷¹ The trustees' returns are filed in the office of the auditor.⁷² The auditor examines the returns and corrects (by orders recorded in a separate book) any errors, mistakes, or omissions discovered. For this purpose he may subpoena and question witnesses.⁷³ The auditor then certifies the corrected enumerations to the

⁶³ Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

⁶⁴ Acts 1859, 1889; Burns 65-102; Baldwin 16060. Acts 1915; Burns 65-103; Baldwin 16061.

⁶⁵ Acts 1843, ch. 4, sec. 61. 1 Rev. Stat. 1832; Burns 49-101; Baldwin 13057.
⁶⁶ State, ex rel. Davis (1890), 126 Ind. 51; 25 N.E. 866.
⁶⁷ Rev. Stat. 1843, ch. 4, secs. 66, 69. 1 Rev. Stat. 1852; Burns 49-104, 49-105; Baldwin 13057, 13058.

⁶⁸ 1 Rev. Stat. 1852; Burns 49-3013; Baldwin 5427.
⁶⁹ Rev. Stat. 1843, ch. 10, sec. 4.
⁷⁰ Acts 1851-52; Burns 49-125; Baldwin 13093.

⁷¹ Acts 1853, ch. 41, secs. 1, 2. Acts 1865, (Spec. Sess.); Burns 65-601 to 65-605; Baldwin 7490 to 7494.
⁷² Acts 1859, 1889; Burns 65-609; Baldwin 15690. Acts 1915; Burns 65-610; Baldwin 15691.

⁷³ Acts 1844-45, (general), ch. 29, sec. 2. Acts 1854, ch. 41, sec. 2. Acts 1865 (Spec. Sess.); Burns 65-614; Baldwin 7503.
⁷⁴ 1 Rev. Stat. 1832; Burns 49-601; Baldwin 13057.

⁷⁵ Acts 1844-45, (general), ch. 29, sec. 3. Acts 1865 (Spec. Sess.); Burns 65-603; Baldwin 7492.
⁷⁶ Rev. Stat. 1843, ch. 10, sec. 4.

⁷⁷ Acts 1853, ch. 41, secs. 1, 2. Acts 1865, (Spec. Sess.); Burns 65-601 to 65-605; Baldwin 7492.
⁷⁸ Acts 1865 (Spec. Sess.); Burns 65-610; Baldwin 7499.

⁷⁹ Acts 1844-45, (general), ch. 29, sec. 2. Acts 1854, ch. 41, sec. 2. Acts 1865 (Spec. Sess.); Burns 65-614; Baldwin 7503.
⁸⁰ Acts 1844-45, (general), ch. 29, sec. 3. Acts 1865 (Spec. Sess.); Burns 65-603; Baldwin 7492.

⁸¹ Acts 1844-45, (general), ch. 29, sec. 3. Acts 1865 (Spec. Sess.); Burns 65-603; Baldwin 7492.

⁸² Acts 1865 (Spec. Sess.); Burns 65-610; Baldwin 7499.

auditor of state.⁷⁴ Likewise there is an enumeration of colored male inhabitants. Separate lists are made; one is designated "white male inhabitants" and the other "colored male inhabitants."⁷⁵

In each township having a population not exceeding 5,000 (all townships except Addison), the office of township assessor has been abolished, and the duties of such office are performed by the township trustee. Reference herein to the township assessor includes the township trustee performing the duties prescribed by statutes for township assessors.⁷⁶

Each township assessor annually prepares lists of all persons in his township who are deaf, dumb, blind, idiotic, or insane, and delivers the lists to the auditor, who reports them to the state department of public welfare.⁷⁷

Formerly the township assessors were required to enumerate the families of soldiers, seamen, and marines in active service, and of those who died or were disabled in active service, and deliver the lists to the auditor.⁷⁸ Formerly township trustees made enumerations of children between the ages of 5 and 21 years and delivered the returns to the auditor, who delivered them to the state superintendent of public instruction.⁷⁹

The auditor keeps an account with each township showing expenditures and tax levies for poor relief, keeps reports of public welfare officials, and keeps records of county welfare funds.⁸⁰

⁷⁴ Acts 1844-45 (general), ch. 29, sec. 5. Acts 1853, ch. 41, sec. 3. Acts 1865 (Spec. Sess.); Burns 65-611; Baldwin 7500.

⁷⁵ Acts 1877; Burns 65-619, 65-620; Baldwin 7503, 7510.

⁷⁶ Acts 1933; Burns 64-1031; Baldwin 15664.

⁷⁷ Acts 1849-50 (general), ch. 17, sec. 4. Acts 1859, ch. 7, secs. 1, 2. Acts 1891, ch. 99, sec. 54. Acts 1919; Burns 64-607; Baldwin 15575.

The foregoing laws require the report to be made to the state board of charities. In 1936 the duties of that board were transferred to the state department of public welfare. Acts 1936 (Spec. Sess.), ch. 3, sec. 11.

⁷⁸ Acts 1865, ch. 40, secs. 2, 3, 5. Acts 1923, ch. 4, sec. 1.

⁷⁹ Rev. Stat. 1843, ch. 15, sec. 25. Acts 1846-47 (general), ch. 94, sec. 2. Acts 1855, ch. 86, sec. 26.

⁸⁰ Acts 1895, ch. 120, sec. 2. Acts 1897, ch. 151, sec. 1 (repealed by Acts 1901, ch. 147, sec. 39). Acts 1901, ch. 147, secs. 11, 12, 19, 20 (all repealed by Acts 1935, ch. 116, sec. 38). Acts 1907, ch. 161, sec. 1 (repealed by Acts 1935, ch. 116, sec. 38). Acts 1935; Burns, 1939 suppl., 52-158; Baldwin, 1935 suppl., 13320-15. Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1402; Baldwin, 1937 suppl., 14078-114.

Formerly the auditor, as clerk of the old-age pension board, issued certificates to applicants approved by the board, and delivered duplicates thereof to the auditor of state.⁸¹

Articles of incorporation of humane societies are filed with the auditor and form the basis for the distribution of humane funds on warrants drawn by him.⁸²

Scalps of woodchucks, heads of owls, hawks, and crows, and eggs of crows are presented to the auditor with the statutory affidavits for the purpose of obtaining bounties thereon.⁸³

The auditor compiles budget estimates made by the county officers and boards; keeps them on file for one month, subject to inspection by any taxpayer; and submits them with his recommendations to the county council at its annual meeting.⁸⁴

The clerk of the circuit court, treasurer, sheriff, and recorder must make reports of fees to the auditor quarterly and at the expiration of their terms of office. The treasurer also makes a monthly report of fees to the auditor.⁸⁵ The clerk of the circuit court annually delivers to the auditor a list of all fines and jury fees collected during the preceding year, and also a list of all fees in his hands which have remained unclaimed for 2 years, and the auditor enters such lists on the order book of the board of commissioners and issues a quietus for the items of such lists which have been paid over to the treasurer.⁸⁶

The auditor furnishes all county officials with books, stationery, and blanks required in doing the public business pertaining to the auditor's office.⁸⁷

Specifications, bids, and contracts for materials and supplies required for county officials for the ensuing year are placed on file and kept in the auditor's office where they are open to public inspection.⁸⁸

⁸¹ Acts 1933, ch. 36, sec. 12 (repealed by Acts 1936 (Spec. Sess.); ch. 3, sec. 129).

⁸² Acts 1913; Burns 9-2504, 9-2505; Baldwin 3805, 3806.

⁸³ Acts 1893; Burns 26-1102; Baldwin 5289. Acts 1911; Burns 26-1103; Baldwin 3802.

⁸⁴ Acts 1899; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1919, 1920 (Spec. Sess.). 1921, 1927, 1935; Burns 1939 suppl., 64-1331, 64-1339; Baldwin, 1935 suppl., 15735, 15737-1.

⁸⁵ Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. Acts 1919; Burns 64-2101; Baldwin 15802.

⁸⁶ Acts 1811-42 (general), ch. 45, sec. 3. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437.

⁸⁷ Acts 1879 (Spec. Sess.); Burns 49-3018; Baldwin 5434.

⁸⁸ Acts 1899, 1903, 1933; Burns 26-546; Baldwin 5401.

When the county borrows money, the bonds or notes are executed by the county commissioners and are attested, advertised, and sold by the auditor. Printed copies of the ordinance authorizing the bond issue, together with specifications describing the bonds, are kept on file in the auditor's office, open to public inspection.⁸⁹ If the amount of a bond issue exceeds \$5,000, and if 10 taxpayers file objections with the auditor, the objections will be certified by the auditor to the state board of tax commissioners for hearing and disposition.⁹⁰ Contracts for extension of time for payment of county or township bonds by issuance of "redemption bonds" are executed by the county commissioners and attested by the auditor, and one executed copy is kept by the auditor; and the auditor keeps a record of redemption bonds issued in pursuance of such contract.⁹¹

The auditor, as relator, may sue, in the name of the state, to recover money owing to the county;⁹² and the auditor may compromise the suits brought by him and receive the money agreed to be paid.⁹³

The auditor of state prepares maps or plats of the lands belonging to the state and located in the county, known as the swamplands, indemnity lands, saline lands, and the lands escheated or forfeited to the state, and delivers them to the county auditor, who causes an appraisal thereof, registers the lands in a book kept for that purpose, and records the sales of such lands.⁹⁴

The auditor prepares the ditch duplicate showing special assessments against lands for construction or repair of ditches and drains.⁹⁵ Special assessments to pay the costs of flood

⁸⁹ Acts 1899, 1921; Burns 26-540; Baldwin 5405.

⁹⁰ *Ibid.* Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736.

⁹¹ Acts 1933; Burns 26-1015 to 26-1017; Baldwin 5353 to 5355.

⁹² 1 Rev. Stat. 1852; Burns 49-3017; Baldwin 5431. *Rogers v. Gibson* (1860), 15 Ind. 218; *Scotten v. State ex rel. Simonton* (1875), 51 Ind. 52; *Yater v. State ex rel. Board of County Comrs.* (1877), 58 Ind. 299; *Hostetler v. State ex rel. Dean* (1876), 62 Ind. 183; *Vanarsdall v. State ex rel. Watson* (1879), 65 Ind. 176; *Gauntt v. State ex rel. Stout* (1881), 81 Ind. 137; *Heagy v. State ex rel. Forkner* (1882), 85 Ind. 260; *Demarest v. Holdeman* (1901), 157 Ind. 467, 62 N. E. 17.

⁹³ *Cabel v. McCafferty* (1876), 53 Ind. 75; *Vigo Twp. v. Board of County Comrs.* (1887), 111 Ind. 170, 12 N. E. 305.

⁹⁴ 1 Rev. Stat. 1852, ch. 104, sec. 13. Acts 1855, ch. 85, secs. 1, 4. Acts 1883, ch. 124, sec. 2. Acts 1889; Burns 62-206 to 62-209; Baldwin 15272 to 15275.

⁹⁵ Acts 1881 (Spec. Sess.), ch. 43, sec. 5 (repealed by Acts 1885 (Spec. Sess.), ch. 40, sec. 13). Acts 1933; Burns 27-134; Baldwin 5770. *Storms v. Stevens* (1885), 104 Ind. 46, 3 N. E.

gates⁹⁶ and the cost of the cutting or eradicating of Canada thistles⁹⁷ are placed on the tax duplicate by him. Formerly petitions for drainage and levee improvements were filed with the auditor and he gave notice to viewers and kept a record of all proceedings concerning such improvements.⁹⁸

The board doing county business has always had power to establish, construct, repair, and vacate county roads.⁹⁹ The auditor, being clerk of said board, has, accordingly, kept a record of road proceedings.¹⁰⁰ Road petitions are filed with the auditor for presentment to the board of commissioners.¹⁰¹ When road viewers are appointed by the board, the auditor notifies the viewers and the county surveyor of their appointment and the time and place for their meeting.¹⁰² Reports of road viewers are filed with the auditor and he enters road assessments on the tax duplicate or special assessment roll.¹⁰³ The county highway supervisor files with the auditor requisitions for all tools, implements, supplies, materials, and equipment needed for county roads.¹⁰⁴ Formerly the auditor annually delivered

401; *Lockwood v. Ferguson* (1856), 105 Ind. 380, 5 N. E. 3; *Board of County Comrs. v. Fahlor* (1888), 114 Ind. 176, 15 N. E. 830.

⁹⁶ Acts 1803; Burns 27-703; Baldwin 5841.

⁹⁷ Acts 1929, 1937; Burns, 1939 suppl., 15-504; Baldwin, 1937 suppl., 3719.

⁹⁸ Acts 1881 (Spec. Sess.), ch. 44, sec. 2 (repealed by Acts 1885 (Spec. Sess.), ch. 40, sec. 13). Acts 1891, ch. 196, secs. 2, 24. Acts 1897, ch. 138, secs. 1, 4. *Simonton v. Hays* (1882), 83 Ind. 70; *Vizzard v. Taylor* (1884), 97 Ind. 90; *White v. Fleming* (1888), 114 Ind. 560, 16 N. E. 487; *Cooper v. Ray* (1897), 143 Ind. 228, 47 N. E. 668.

⁹⁹ Acts 1807, ch. 44, secs. 1-24. Acts 1811, ch. 29, secs. 1, 2. Acts 1815, ch. 5, secs. 1-20. Acts 1816-17, ch. 8, secs. 1, 4-8, 10, 11, 15, 22. Acts 1817-18 (general), ch. 43, secs. 1, 23. Acts 1818-19, ch. 11, secs. 2, 7, 11, 12. Acts 1819-20, ch. 55, secs. 31, 33. Rev. Laws 1824, ch. 87, secs. 1, 4-7, 9, 12, 15, 24, 25. Rev. Laws 1831, ch. 20, sec. 22; ch. 82, secs. 1, 4, 6, 12, 14, 28, 47. 1 Rev. Stat. 1852, ch. 48. Acts 1881 (Spec. Sess.), chs. 61-64. Acts 1805, 1807; Burns 36-201 *et seq.*; Baldwin 5756 *et seq.* Acts 1919; Burns 36-301 *et seq.*; Baldwin 8659 *et seq.* Acts 1907; Burns 36-401 *et seq.*; Baldwin 8962 *et seq.* Acts 1919; Burns 36-501 *et seq.*; Baldwin 8879 *et seq.* Acts 1932; Burns 36-1101 *et seq.*; Baldwin 8699 *et seq.*

¹⁰⁰ Acts 1921; Burns 36-1451; Baldwin 8654. Acts 1905; Burns 36-1222; Baldwin 8823.

¹⁰¹ Acts 1919, 1921; Burns 36-304; Baldwin 8662.

¹⁰² Acts 1895, ch. 11, sec. 1. Acts 1905, 1907; Burns 36-1301; Baldwin 8787. *Turpin v. Eagle Creek & L. W. L. G. R. Co.* (1874), 48 Ind. 45.

¹⁰³ Acts 1869 (Spec. Sess.), ch. 35, sec. 3 (repealed by Acts 1929, ch. 215, sec. 73). Acts 1877, ch. 46, sec. 3. Acts 1905, 1907; Burns 36-1301; 36-1305; Baldwin 8787, 8791. Acts 1921; Burns 36-1412; Baldwin 8915. *Florer v. McAfee* (1883), 135 Ind. 540, 35 N. E. 277; *Smyth v. State ex rel. Braun* (1902), 158 Ind. 332, 62 N. E. 449.

¹⁰⁴ Acts 1935; Burns, 1939 suppl., 36-1114; Baldwin, 1935 suppl., 8703-1.

to the road supervisor a list of landowners of the county¹⁰⁵ and annually delivered to each township trustee a list of all road taxes assessed against each individual in the township.¹⁰⁶

Petitions for condemnation of schoolhouses, as unfit for use for school purposes, are filed with the auditor. The auditor mails and publishes notices of hearings, and calls special joint sessions of the board of commissioners and county council to hold hearings on such petitions.¹⁰⁷

Formerly every fire insurance company doing business in Indiana, not organized under Indiana laws, was required to make semiannual reports to the auditor showing premiums received by the company for fire insurance on property in the county and showing all losses paid by the company for the last semiannual period.¹⁰⁸ Formerly financial statements of banks were filed with the auditor.¹⁰⁹

The auditor certifies to the city officials the number of taxable polls therein,¹¹⁰ adds omitted polls to the tax duplicate,¹¹¹ and certifies to the treasurer the amount of excise tax due from financial institutions.¹¹² For excise tax purposes, financial institutions deliver to the auditor each month a statement showing the number of its shares, amount of deposits, and kindred information.¹¹³ The auditor is authorized to examine the records of the recorder and clerk of the circuit court to ascertain whether all persons have paid intangible taxes; and for this purpose may interrogate any person under oath and examine private records of such person.¹¹⁴

The excise tax on dogs and dog kennels is administered by the township assessors and the county auditor.¹¹⁵

¹⁰⁵ Rev. Stat. 1843, ch. 16, sec. 105.

¹⁰⁶ Acts 1883, ch. 56, sec. 20.

¹⁰⁷ Acts 1931; Burns 28-3002 to 28-3004; Baldwin 6144 to 6146.

¹⁰⁸ Acts 1891, ch. 192, sec. 1. On June 16, 1893 this act was held unconstitutional.

Henderson v. London & Lancashire Ins. Co. (1893), 135 Ind. 23, 34 N. E. 565.

¹⁰⁹ Acts 1905, ch. 56, sec. 2 (repealed by Acts 1907, ch. 281, sec. 6).

¹¹⁰ Acts 1905, 1911; Burns 48-6708; Baldwin 11516.

¹¹¹ Acts 1919; Burns 64-2102; Baldwin 15503.

¹¹² Acts 1933; Burns 64-810; Baldwin 15591.

¹¹³ Acts 1933, 1935; Burns, 1939 suppl., 64-807; Baldwin, 1935 suppl., 15588.

¹¹⁴ Acts 1933; Burns 64-917; Baldwin 15915.

¹¹⁵ Acts 1897, ch. 119. Acts 1925, ch. 144 (repealed by Acts 1927, ch. 176, sec. 14). Acts 1927, ch. 176 (repealed by Acts 1937, ch. 133, sec. 16). Acts 1923; Burns 16-301, 16-302; Baldwin 3826, 3827. Acts 1937; Burns, 1939 suppl., 16-317; Baldwin, 1937 suppl., 3811-1.

The auditor issues licenses for peddlers, shows, theaters,¹¹⁶ transient merchants,¹¹⁷ and public warehouses.¹¹⁸ Formerly he issued liquor licenses,¹¹⁹ and filed remonstrances against issuance of saloon licenses by the board of commissioners.¹²⁰

The auditor takes a very important part in the administration of property tax laws. Annually the township assessors file with the auditor all returns of real and personal property made by them, together with all assessment lists, schedules, statements, maps, and other books and papers used by them in making such returns; and the county assessor obtains the same from the auditor to perform the county assessor's duties, but returns them to the auditor for permanent filing.¹²¹ If a taxpayer refuses to make a personal property tax return or an oath required by law, the auditor adds 50 percent to the personal property valuation returned by the assessor.¹²² If a landowner fails to furnish a list of lands within 5 days after a township assessor has so requested, the auditor must add 25 percent to the valuation of the lands listed by the assessor.¹²³ The auditor assesses omitted property, after giving notice to the taxpayer.¹²⁴ For the purpose of the listing

¹¹⁶ 1 Rev. Stat. 1852; Burns 42-204; Baldwin 10447. Acts 1917, 1937; Burns, 1939 suppl., 42-201; Baldwin, 1937 suppl., 10443. Acts 1901; Burns 42-502, 42-503; Baldwin 10470, 10471. Acts 1895; Burns 42-510; Baldwin 10478.

¹¹⁷ Acts 1901; Burns 42-402; Baldwin 10491. The auditor keeps a record of such licenses in a book provided for that purpose, and it is open for public inspection. *Ibid.*

¹¹⁸ Acts 1875, 1879 (Spec. Sess.); Burns 67-201; Baldwin 16206.

¹¹⁹ Acts 1853, ch. 66, sec. 3 (repealed by Acts 1855, ch. 106, secs. 1, 2). Acts 1855, ch. 105, sec. 4 (repealed by Acts 1858 (Spec. Sess.), ch. 15). Acts 1873, ch. 59, sec. 2. *Padget v. State* (1884), 93 Ind. 396.

¹²⁰ Acts 1905, ch. 6, sec. 1.

¹²¹ Rev. Stat. 1843, ch. 12, secs. 28, 41. Acts 1850-51 (general), ch. 5, secs. 12, 19; ch. 9, secs. 5, 8. Acts 1858 (Spec. Sess.), ch. 2, sec. 20. Acts 1891, ch. 99, secs. 101, 105. Acts 1919; Burns 64-1023, 64-1029, 64-1102; Baldwin 15669, 15694, 15698. Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Interview of May 18, 1939 with E. P. Brennan, state examiner.

¹²² Acts 1919; Burns 64-610; Baldwin 15578.

¹²³ Acts 1919; Burns 64-1003; Baldwin 15674.

¹²⁴ Acts 1840-41 (general), ch. 1, sec. 9. Acts 1889, ch. 183, sec. 1. Acts 1919; Burns 64-1402; Baldwin 15739. *Scott v. Knightstown* (1882), 84 Ind. 106; *Lang v. Clapp* (1885), 103 Ind. 17, 2 N. E. 197; *Vandercock v. Williams* (1885), 106 Ind. 345, 1 N. E. 619; *Williams v. Segur* (1885), 106 Ind. 368, 1 N. E. 707; *McKeen v. Haskell* (1886), 108 Ind. 97, 8 N. E. 901; *Board of County Comrs. v. Senn* (1889), 117 Ind. 410, 20 N. E. 276; *Florer v. Sherwood* (1891), 128 Ind. 495, 28 N. E.

and assessment of omitted property, the auditor may, on filing proper affidavit in the circuit court and obtaining a writ directed to the sheriff, inspect the books and papers of taxpayers.¹²⁵ Acting for the county board of review, he gives notice to taxpayers in order that the board may assess omitted property or raise valuations.¹²⁶ Appeals from the county board of review to the state board of tax commissioners are usually heard in the office of the auditor.¹²⁷ Formerly the auditor annually notified all township assessors to meet in the auditor's office to agree on a uniform rate of assessment.¹²⁸ Formerly railroad companies annually filed with the auditor, for taxation purposes, complete inventories of assets.¹²⁹

The auditor annually makes out and delivers to the township assessors lists of lands entered on the tax duplicates of the previous year, with notations thereon showing all transfers made subsequent to the duplicate and all new entries of land not previously entered for taxation. The auditor makes plats of the several townships showing ownership, improvements, and assessed valuation of the parcels therein. The township assessors write on such plats the ownership and value of each plot of ground and the improvements thereon, and the plat is kept up with all current transactions and transfers.¹³⁰ The auditor keeps a record of all lands classified by the state forester as "forest plantation" or "native forest lands" to obtain special rules and rates for tax assessments.¹³¹

For taxation purposes, the auditor keeps a transfer book,

71; *Hennel v. Board of County Comrs.* (1892), 132 Ind. 32, 31 N. E. 462; *Florer v. Sheridan* (1894), 137 Ind. 28, 36 N. E. 365; *Cummings v. Stark* (1893), 138 Ind. 94, 34 N. E. 444; *Thiebaud v. Tait* (1894), 138 Ind. 238, 36 N. E. 525; *Eaton v. Union County Nat. Bank* (1895), 141 Ind. 136, 40 N. E. 668; *Buck v. Miller* (1896), 147 Ind. 586, 45 N. E. 647; *Miller v. Vollmer* (1899), 153 Ind. 26, 53 N. E. 949; *Crowder v. Riggs* (1899), 153 Ind. 158, 53 N. E. 1019; *Parkison v. Thompson* (1905), 154 Ind. 609, 73 N. E. 109; *Darnell v. State* (1910), 174 Ind. 143, 90 N. E. 769.

¹²⁵ Acts 1891, ch. 99, sec. 34. Acts 1919; Burns 64-1026; Baldwin, 15549.

¹²⁶ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

¹²⁷ Acts 1919, 1935; Burns, 1939 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State board of tax commissioners, tax rule 6.

¹²⁸ Acts 1889, ch. 108, sec. 1 (repealed by Acts 1891, ch. 99, sec. 259).

¹²⁹ Acts 1891, ch. 99, sec. 83.

¹³⁰ Acts 1840-41 (general), ch. 1, sec. 4; ch. 2, sec. 12. Acts 1841-42, ch. 60, sec. 4. Rev. Stat. 1843, ch. 12, sec. 27. Acts 1858 (Spec. Sess.), ch. 2, sec. 5. Acts 1891, ch. 99, sec. 93. Acts 1919, 1937; Burns, 1939 suppl., 64-1007; Baldwin, 1937 suppl., 15672.

¹³¹ Acts 1899, ch. 256, sec. 9. Acts 1921; Burns 32-304, 32-306; Baldwin 15517-4, 15517-6.

arranged by townships, cities, and towns, showing description of all lands conveyed by deed or partition, names of parties, and post-office addresses of grantees. No such conveyance can be recorded by the recorder until after the instrument has been presented to the auditor and he has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.¹³² On the death of a landowner, the heir or devisee may have the auditor make an entry on the tax duplicate to show the change of ownership.¹³³ The auditor corrects on the tax books any errors as to description of property and names of owners.¹³⁴

Forms and instructions for taxation purposes are prescribed by the state board of tax commissioners and delivered to the auditor.¹³⁵ The auditor furnishes the township assessors with all necessary books and blanks for their use in making assessment of real and personal property.¹³⁶ Assessments of omitted real estate by township assessors are filed with the auditor.¹³⁷ The auditor makes assessment of any newly platted land additions to any city or town.¹³⁸

The auditor certifies as to the required number of signers of petitions filed by groups of taxpayers with the state board of tax commissioners to obtain a re-assessment of real estate.¹³⁹

Sworn statements to obtain mortgage deductions on assessment of real estate are filed with the auditor.¹⁴⁰ Sworn state-

¹³² Rev. Stat. 1843, ch. 12, secs. 23, 25, 26. Acts 1881 (Spec. Sess.), ch. 96, sec. 154.
¹ Rev. Stat. 1852; Burns 49-3214; Baldwin 5478. Acts 1919; Burns 64-1409; Baldwin 15746.

¹³³ Acts 1921; Burns 64-519; Baldwin 14777.

¹³⁴ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Acts 1919; Burns 64-1025; Baldwin 15692.

¹³⁵ Acts 1919; Burns 64-2803; Baldwin 15686. "Revised Forms", *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (1940), pp. 22-30, 53, 54, 102, 103, 123-139.

¹³⁶ Acts 1858 (Spec. Sess.), ch. 2, sec. 23. Acts 1891, ch. 99, secs. 53, 101. Acts 1903, ch. 29, sec. 32. Acts 1899; Burns 26-543; Baldwin 5408. Acts 1895; Burns 49-1401; Baldwin 7576. Acts 1879 (Spec. Sess.); Burns 49-3018; Baldwin 5434. Acts 1919; Burns 64-1007, 64-1016; Baldwin 15672, 15682.

¹³⁷ Acts 1840-41 (general), ch. 2, sec. 12. Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Acts 1919; Burns 64-1025; Baldwin 15692.

¹³⁸ Acts 1919; Burns 64-1027; Baldwin 15691.

¹³⁹ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019(a); Baldwin, 1937 suppl., 15685(a).

¹⁴⁰ Acts 1899, ch. 190, secs. 2, 3. Acts 1919, 1939; Burns, 1939 suppl., 64-209 to 64-211;

ments of volunteer firemen¹⁴¹ and disabled veterans¹⁴² are filed with the auditor to obtain tax exemptions. Applications for tax exemptions for educational, charitable, religious, fraternal, literary, and scientific organizations are filed with the auditor, who refers them to the board of review for approval.¹⁴³

Annually the auditor apportions the final assessment of real and personal property among the several taxing units of the county and certifies the same to the county, townships, cities, and towns for the purpose of making tax levies based thereon.¹⁴⁴ After the county council, at its annual meeting, adopts a budget, establishes a tax rate, and makes tax levies for the succeeding calendar year, the auditor schedules the rates for the several municipal corporations in the county, verifies the figures and calculations, and reports the levies to the state board of tax commissioners.¹⁴⁵ The decisions of the state board of tax commissioners on an appeal from the county council's action in adopting budgets and tax levies is certified to the auditor and he certifies it to the taxing units interested therein.¹⁴⁶

Annually each municipal corporation of the county files with the auditor a statement of tax levies and rates for the ensuing year, fixed by such municipal corporations, and copies of the budgets on which such levies are based.¹⁴⁷ At the annual meeting of the board of tax adjustment, the auditor lays before the board these budgets, tax levies, and rates.¹⁴⁸ If the board of tax adjustment does not complete its duties

Baldwin, 1939 suppl., 15565 to 15567. "Mortgage Deductions", *Thirty-Eighth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, January 9, 10, 11, 1939* (1939), pp. 64-74.

¹⁴¹ 1 Rev. Stat. 1852, ch. 41, sec. 3. Acts 1933, ch. 91, sec. 1. Acts 1935, ch. 302, sec.

1. Acts 1939; Burns, 1939 suppl., 48-6161; Baldwin, 1939 suppl., 12653-1.

¹⁴² Acts 1927; Burns 64-203; Baldwin 10987.

¹⁴³ Acts 1937; Burns, 1939 suppl., 64-213; Baldwin, 1937 suppl., 15518-2.

¹⁴⁴ Acts 1919, 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733.

¹⁴⁵ Acts 1889; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733. Acts 1919; Burns 64-1330; Baldwin 15734. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

¹⁴⁶ Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

¹⁴⁷ Acts 1933; Burns 64-302; Baldwin 15893. Acts 1937; Burns, 1939 suppl., 64-311; Baldwin, 1937 suppl., 15897-5.

¹⁴⁸ Acts 1937; Burns, 1939 suppl., 64-310; Baldwin 1937 suppl., 15897-4.

before October 2, or fails to reduce the aggregate amount of the tax levies and rates within the statutory limits, the auditor calculates and fixes the rates and certifies his action to each municipal corporation.¹⁴⁹ The decision of the state board of tax commissioners on an appeal from the action of the board of tax adjustment is certified to the auditor.¹⁵⁰

The auditor certifies to the state board of tax commissioners all emergency appropriations made by the county council, together with tax levies based thereon.¹⁵¹

After the assessments, budgets, tax rates, and tax levies have been made, the auditor makes out and delivers to the treasurer a roll of taxes known and designated as the tax duplicate, and a complete tax abstract of all property listed in each township, city, and town. He keeps a copy of the abstract in his office and delivers another copy thereof to the auditor of the state.¹⁵² Semiannually the county auditor delivers to the county treasurer and to the treasurer of each city, town, and township in the county, a complete list of all persons reported as delinquent in the payment of taxes, as shown by the tax duplicate.¹⁵³ Formerly a separate list of delinquent taxes was delivered by the county auditor to the auditor of state, but now, and for many years last past, the only lists so delivered are those that are set forth in the tax abstract.¹⁵⁴

The auditor annually prepares and records in a book, provided for that purpose, a list of lands delinquent for taxes, charge interest and a penalty of 10 percent thereto, publishes and posts the list with a notice of tax sale, includes a copy of the notice in his record, and certifies on his record

¹⁴⁹ Acts 1937; Burns, 1939 suppl., 64-311, 64-314; Baldwin, 1937 suppl., 15897-5, 15897-8.

¹⁵⁰ Acts 1937; Burns, 1939 suppl., 64-314; Baldwin, 1937 suppl., 15897-8.

¹⁵¹ Acts 1899, 1907, 1913, 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

¹⁵² Acts 1840-41 (general), ch. 1, secs. 12, 14; ch. 2, secs. 17, 22. Rev. Stat. 1843, ch. 12, secs. 44, 50, 51, 133. Acts 1919; Burns 64-1403, 64-1408; Baldwin 15740, 15745. Standard Oil Co. v. Bretz (1884), 98 Ind. 231; Adams v. Davis (1886), 109 Ind. 10, 9 N. E. 162; Smith v. Smith (1902), 159 Ind. 388, 65 N. E. 183.

¹⁵³ Rev. Stat. 1843, ch. 12, sec. 68. Acts 1911, ch. 234, sec. 1. Acts 1919; Burns 64-1505; Baldwin 15767.

¹⁵⁴ Rev. Stat. 1843, ch. 12, sec. 63. Interview of June 29, 1939 with Frank G. Thompson, auditor of state.

the time and manner of such publication and posting.¹⁵⁵ The auditor attends the treasurer's tax sales of delinquent lands, keeps a record of the sales, and issues certificates to the purchasers.¹⁵⁶ The auditor acts as arbiter in case of partial redemption of lands from tax sale.¹⁵⁷ When lands are redeemed from tax sale, he issues a certificate of redemption and keeps a record of all redemptions.¹⁵⁸ The auditor executes all tax deeds of land, and keeps a record thereof.¹⁵⁹ He issues a warrant for a refund to persons paying illegal or erroneous taxes and also to purchasers at void tax sales.¹⁶⁰ Annually a list of lands offered at tax sale 3 years successively, on which there was no bid equal to the amount of taxes due thereon, is prepared by the treasurer, certified by the auditor, and delivered to the prosecuting attorney.¹⁶¹

The state's share of taxes collected by the county treasurer is disbursed to the proper state officers on warrants drawn by the auditor on the county treasury.¹⁶²

The auditor manages the common school and Congressional Township school funds,¹⁶³ with the exception of making loans. The county school fund board, composed of the auditor, clerk of the circuit court, and another person appointed by the judge of the circuit court, makes all the loans from the

¹⁵⁵ Acts 1840-41 (general), ch. 2, secs. 26, 28-30. Acts 1879 (Spec. Sess.), ch. 96, sec. 3. Acts 1883, ch. 76, sec. 1. Acts 1919; Burns 64-2201; Baldwin 15806. Acts 1919, 1931, 1937; Burns, 1939 suppl., 64-2202; Baldwin, 1937 suppl., 15807. *Abbott v. Edgerton* (1876), 53 Ind. 186; *Stropes v. Board of County Comrs.* (1880), 72 Ind. 42.

¹⁵⁶ Acts 1840-41 (general), ch. 2, secs. 33, 34. Rev. Stat. 1843, ch. 12, secs. 97, 122, 123. 1 Rev. Stat. 1852, ch. 6, sec. 177. Acts 1919; Burns 64-2209, 64-2210; Baldwin 15816, 15817. *Gable v. Seiben* (1894), 137 Ind. 155, 36 N. E. 844.

¹⁵⁷ Acts 1919; Burns 64-2308; Baldwin 15826.

¹⁵⁸ Rev. Stat. 1843, ch. 12, secs. 97, 122, 123. Acts 1919; Burns 64-2313; Baldwin 15831.

¹⁵⁹ Acts 1840-41 (general), ch. 2, secs. 37, 44. Acts 1919; Burns 64-2404 to 64-2409; Baldwin 15833 to 15838. *Reid v. State ex rel. Thompson* (1881), 74 Ind. 252; *Smith v. Kyler* (1881), 74 Ind. 575; *Woolen v. Rockefeller* (1881), 81 Ind. 203; *Lancaster v. De Hadway* (1884), 97 Ind. 565; *Rowe v. Peabody* (1885), 102 Ind. 198, 1 N. E. 353.

¹⁶⁰ Acts 1919; Burns 64-1407, 64-2411, 64-2819; Baldwin 15744, 15840, 15881. *Wolfe v. State ex rel. Kennard* (1883), 90 Ind. 16.

¹⁶¹ Acts 1881 (Spec. Sess.), ch. 96, sec. 222. Acts 1919; Burns 64-1518; Baldwin 15772.

¹⁶² Acts 1877, ch. 90, sec. 1. Acts 1907, 1911; Burns 61-620; Baldwin 13824 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1937; Burns, 1939 suppl., 61-626; Baldwin, 1937 suppl., 13844-47.

¹⁶³ Acts 1855, ch. 86, sec. 155. Acts 1861, ch. 41, secs. 122, 160. Acts 1865, 1907; Burns 28-101, 28-102, 28-105; Baldwin 6499, 6500, 6511.

school funds.¹⁶⁴ Whenever a Congressional Township is divided by a county line, the auditor makes all adjustments of land, accounts, and distribution of pupils.¹⁶⁵ The auditor conducts the sale of school lands¹⁶⁶ (including those previously sold and forfeited by the purchasers thereof).¹⁶⁷ The auditor issues a quitclaim deed whenever there is a defect in the title of the owner of land in a school section resulting from destruction of public records.¹⁶⁸

The auditor keeps records of all financial transactions of the county. He keeps fee books, cashbooks,¹⁶⁹ warrant books,¹⁷⁰ canceled warrants,¹⁷¹ tax abstracts,¹⁷² fee reports of county officers,¹⁷³ and township trustees' reports of receipts and disbursements (accompanied by vouchers).¹⁷⁴ He keeps separate accounts for each specific item of appropriation by the county council¹⁷⁵ and an account current, with the treasurer, of county funds.¹⁷⁶ He keeps a record of all the boards of which he is clerk or secretary, and must preserve the documents, books, papers, and maps deposited in his office.¹⁷⁷ If any map or plat in his office becomes worn or

¹⁶⁴ Rev. Stat. 1843, ch. 13, sec. 45. - Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558. See the essay entitled "County School Fund Board."

¹⁶⁵ Acts 1877 (Spec. Sess.); Burns 28-111 to 28-114; Baldwin 6518 to 6520, 6510.

¹⁶⁶ Acts 1865, 1875; Burns 28-122 to 28-124; Baldwin 6553, 6523, 6529.

¹⁶⁷ Acts 1863, 1865; Burns 28-125, 28-126, 28-129 to 28-133, 28-135 to 28-137, 28-140 to 28-143. 28-145, 28-146; Baldwin 6530, 6531, 6538, 6539, 6534, 6535, 6540, 6542 to 6544, 6547 to 6550, 6552, 6554.

¹⁶⁸ Acts 1915; Burns 28-239; Baldwin 5435.

¹⁶⁹ Acts 1840-41 (general), ch. 2, sec. 27. Acts 1891, ch. 194, sec. 124. Acts 1895; Burns 49-1401; Baldwin 7576.

¹⁷⁰ Rev. Stat. 1843, ch. 7, sec. 56. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419.

¹⁷¹ Rev. Stat. 1843, ch. 7, secs. 79, 85. 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561.

Interview of June 14, 1939 with E. P. Brennan, state examiner.

¹⁷² Rev. Stat. 1843, ch. 12, secs. 97, 122, 123. Acts 1919; Burns 64-2313; Baldwin 15631.

¹⁷³ Acts 1895, 1903; 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891;

Burns 49-2710; Baldwin 1437.

¹⁷⁴ Acts 1899, 1901; Burns 65-318; Baldwin 16075.

¹⁷⁵ Acts 1899; Burns 26-523; Baldwin 5387.

¹⁷⁶ Acts 1840-41 (general), ch. 2, sec. 10. 1 Rev. Stat. 1852; Burns 49-3010; Baldwin 5423.

Wells v. State *ex rel.* Board of County Comrs. (1864), 22 Ind. 241.

¹⁷⁷ Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53; ch. 15, sec. 34. Acts 1883, ch. 56, sec. 1. Acts 1891, ch. 99, secs. 114, 116. 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418. Acts 1899; Burns 26-509; Baldwin 5373. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700. Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

defaced, he makes a new copy thereof.¹⁷⁸ He takes copies of any maps or plats in the recorder's office that may be necessary for the discharge of the auditor's official duties.¹⁷⁹ He keeps a record of tax sales,¹⁸⁰ tax redemptions,¹⁸¹ tax deeds,¹⁸² the costs of change of venue in judicial proceedings,¹⁸³ and appraisal and sale of certain state lands.¹⁸⁴

Forms for the following books were prescribed for the county auditors by the state board of accounts: Fee and cashbook; tax duplicate; ditch tax duplicate; ditch tax duplicate—10 year payment; moratorium tax duplicate; register of warrants on treasurer; register of quietuses and receipts; distribution record; record of commissioners' allowances; ledger of appropriations and disbursements; ledger of receipts and disbursements; record of receipt and sale of intangible tax stamps; register of banks and savings banks; register of building and loan associations; register of school fund loans; register of school fund interest contracts and record of payments; inventory of school fund loans; record of condition of school funds; register of macadam road bonds and interest paid; bond register; transfer record; venue record; monthly balance record; auditor's financial statement; insolvent record; register of receipts and sales of material—county infirmary; construction record—ruled, printed, punched; register of redemption bonds; bidders' record; work sheet—delinquent tax extension; abstract of delinquent tax 1934 carried to 1935 duplicate; poor relief ledger; township poor bond redemption ledger; ledger of poor bond receipts; and auditor's poor claim register.¹⁸⁵

Forms for the following blanks, documents, and reports were prescribed for the county auditors by the state board of accounts: Reports of fees collected; claim for burial of soldiers; ordinance of appropriation; estimate of revenue

¹⁷⁸ 1 Rev. Stat. 1852; Burns 49-3232; Baldwin 5432.

¹⁷⁹ *Ibid.*

¹⁸⁰ Acts 1877, ch. 90, sec. 1. Acts 1907, 1911; Burns 61-620; Baldwin 13824 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1937; Burns, 1939 suppl., 61-626; Baldwin, 1937 suppl., 13844-47.

¹⁸¹ Rev. Stat. 1843, ch. 13, sec. 45. Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558. See the essay entitled "County School Fund Board."

¹⁸² Acts 1877 (Spec. Sess.); Burns 28-111 to 28-114; Baldwin 6518 to 6520, 6510.

¹⁸³ Acts 1913; Burns 2-1417, 2-1418; Baldwin 199, 200.

¹⁸⁴ 1 Rev. Stat. 1852, ch. 104, sec. 13. Acts 1855, ch. 85, secs. 1, 4. Acts 1883, ch. 124, sec. 2. Acts 1889; Burns 62-206 to 62-209; Baldwin 15272 to 15275.

¹⁸⁵ Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

other than taxes; warrants on treasurer; claims against county; dog claims; estimate of county commissioners-general; estimates of county commissioners for orphans' home, tuberculosis hospital, county hospital, and insane hospital; estimates of clerk of the circuit court, auditor, treasurer, recorder, sheriff, surveyor, superintendent of schools, coroner, county assessor, township assessors, prosecuting attorney, highway supervisor, circuit court; auditor's card; report of superintendent of infirmary; report of viewers and engineer; county engineer's monthly estimate; surveyor's claim blank; specifications, bid, and contract for county printing and purchase of supplies; requisition; apportionment of current tax-June settlement; apportionment of current tax-December settlement; apportionment of bank or building and loan tax-June or December settlement; apportionment of delinquent tax-June settlement; apportionment of delinquent tax-December settlement; apportionment of moratorium tax-June or December settlement; distribution sheets-June and December; apportionment of treasurer's fees for collection of delinquent tax-June or December settlement; election to accept extension of school fund loan; contract for installment payments of delinquent interest on school fund loans; agreement for issuance of redemption bond; revised budget estimates of funds-county, township, civil city, civil town, school corporation, and library; estimate of miscellaneous revenue-county general fund, township fund, corporation fund, school corporation, civil town; June settlement sheets; December settlement sheets; abstract of taxables; notice to bidders; certificate of code compliance; school fund mortgage; journal voucher; auditor's report to commissioners; and kennel license.¹⁸⁶

The state board of accounts was created in 1909.¹⁸⁷ Nearly all of the aforementioned forms were prescribed in 1910 and 1911, though some changes have been made since then. Most of the books and records required by the state board of accounts were specifically required by statute; but the board, under its broad statutory powers, has in some instances required books and records, such as the auditors' monthly balance record, not specifically required by statute. The auditor is not required to keep as many separate records now as he did before 1924, since the state board consolidated many of his records that year.¹⁸⁸

¹⁸⁶ *Ibid.*

¹⁸⁷ Acts 1909; Burns 60-202; Baldwin 13855.

¹⁸⁸ *Ibid.* Interview of May 18, 1939 with E. P. Brennan, state examiner.

AUDITS AND REPORTS

279. STATE BOARD OF ACCOUNTS REPORTS OF COUNTY OFFICERS, 1910-. 5 f. b.

Duplicate copies of the audited reports of county offices and school corporation records made by field examiners of state board of accounts, shewing dates of report, examination and filing, names of office or school corporation, officials and examiners, condition of accounts, and recommendations of examiners. Arr. chron. by dates of filing. No index. Typed. 11 x 5 x 14. Aud. off.

280. TRUSTEE'S VOUCHERS, 1894-. 28 f. b. Title varies: Trustee's Reports, 1919, 1925, 3 f. b.

Receipted copies of township trustees' vouchers issued in payment of township expenses, showing date, amount and number of voucher, names of payee, township and fund, and nature of payment. Arr. num. by voucher nos. No index. Hdw. 11 x 5 x 14. 6 f. b., 1894-1915, bsmt. vt., B-6; 22 f. b., 1916-, aud. off.

281. TRUSTEE'S DOG TAX REPORT, 1901-. 4 f. b.

Annual reports of dog fund receipts and disbursements submitted to auditor by township trustees, showing dates of report and filing, names of trustee, township and payee, dates and amounts of receipt and disbursement, quietus and voucher numbers, source of receipt and nature of disbursements, and balance. Arr. chron. by dates of reports. No index. Hdw. 11 x 5 x 14. Aud. off.

282. TRUSTEE'S REPORTS, 1910, 1913-. 20 vols. (dated).

Copies of annual reports of receipts and disbursements submitted to township advisory boards by township trustees, showing dates of report and filing, names of township, trustee, payer, payee and fund, date, amount and nature of receipt or disbursement, receipt or warrant number, total receipts, disbursements and balance, and action of advisory board. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 700 pp. 18 x 12 x 3. 3 vols., 1910, 1932-33, bsmt. vt., B-12; 12 vols., 1913-31, bsmt. vt., B-7; 5 vols., 1934-, aud. off.

283. COUNTY OFFICERS REPORT, 1912-. 2 f. b.

Periodic reports of fees, fines and forfeitures collected and uncollected by county officials, submitted to auditor, showing dates of report, collection, collection period, approval and filing, names of official and office, amount, nature and source of collection, amount and nature of fees uncollected, and amount paid treasurer. Arr. chron. by dates of reports. No index. Typed. 11 x 5 x 14. Aud. off.

284. JUSTICE OF PEACE REPORT OF FINES, 1918-. 3 f. b. Reports to auditor of fines collected by justices of the peace, showing dates of report, collection and filing, names of township, justice of the peace, plaintiff and defendant, and amount collected. Arr. chron. by dates of filing. No index. Hdw. 11 x 5 x 14. Aud. off.

285. REGISTER OF TOWNSHIP WARRANTS AUDITED, 1897-98.
1 vol. Discontinued.

Register of township warrants audited, showing date, amount, number and nature of warrant, names of payee, fund, trustee and township, and date of audit. Arr. chron. by dates of audits. No index. Hdw. 500 pp. 18 x 12 x 3. Bsmt. vt., B-12.

RECEIPTS AND DISBURSEMENTS

(See also entries 263-277)

GENERAL FUND

286. MONTHLY BALANCE BOOK, 1912-. 4 vols. (1-4). Auditor's monthly financial statements of receipts and disbursements of county revenue and miscellaneous funds, showing date of statement, name and number of fund, amounts of previous and current receipts and disbursement, totals, and balance. Arr. chron. by dates of statements. No index. Hdw. 356 pp. 18 x 13 x 3. 2 vols., 1912-Apr. 1929, bsmt. vt., B-12; 2 vols., May 1929-, aud. off.

287. AUDITOR'S FEE AND CASH BOOK, 1899-. 5 vols. (one vol. not labeled, 1-4). Title varies: Fee Book, 1899-Jan. 1910, 1 vol.

Register of fees collected and paid to treasurer by auditor for services on instruments filed in his office, showing date and amount of collection, name of payer, kind of instrument, and amount paid treasurer. Arr. chron. by dates of collections. No index. Hdw. 400 pp. 18 x 12 x 3. 4 vols., 1899-1935, bsmt. vt., B-12; 1 vol., 1936-, aud. off.

288. RECEIPTS, APPROPRIATIONS & DISBURSEMENTS, June 1925-.
4 vols.

Record of receipts, appropriations and disbursements of county revenue and miscellaneous funds, showing dates and amounts of appropriation, receipt and disbursement, name of fund, appropriation, receipt, fund and warrant numbers, source of receipt, total receipts and disbursements, and balance. This is a combination of four records formerly kept separately: Record of Receipts of County Revenue, entry 289; Record of Appropriations and Disbursements, entry 290; Record of

Receipts Other Than Taxes, entry 291; Register of Warrants, entry 292. Arr. by funds, thereunder chron. by dates of receipts and disbursements. No index. Hdw. 300 pp. 19 x 16 x 3. 3 vols., June 1925-29, 1934-, aud. off.; 1 vol., 1930-33, bsmt. vt., B-12.

289. RECORD OF RECEIPTS COUNTY REVENUE, 1912-May 1925. 2 vols. June 1925- in Receipts, Appropriations & Disbursements, entry 288.

Recapitulation of daily receipts of county revenue, shewing date, number and amount of receipt, and name of fund. Arr. by funds, thereunder chron. by dates of receipts. No index. Hdw. 400 pp. 18 x 24 x 2. Bsmt. vt., B-12.

290. RECORD OF APPROPRIATIONS AND DISBURSEMENTS, 1899-May 1925. 5 vols. (one vol. not labeled, 1-3, 1). June 1925- in Receipts, Appropriations & Disbursements, entry 288.

Record of appropriations for county expenditures and disbursements therefrom, showing dates and amounts of appropriation and disbursement, names of payee and fund, appropriation and warrant numbers, total disbursements, and balance. 1899-1911, 1915-May 1925, arr. chron. by dates of disbursements; 1912-14, arr. by funds, thereunder chron. by dates of disbursements. No index. Hdw. 600 pp. 18 x 20 x 3. 1 vol., 1899-1900, bsmt. vt., B-6; 4 vols., 1901-May 1925, bsmt. vt., B-12.

291. REGISTER OF RECEIPTS OTHER THAN TAXES, 1911-May 1925. 1 vol. June 1925- in Receipts, Appropriations & Disbursements, entry 288.

Register of receipts other than taxes for which quietuses have been issued, showing date, amount and number of receipt, names of payer and fund, and nature of payment. Arr. num. by receipt nos. No index. Hdw. 400 pp. 18 x 12 x 3. Bsmt. vt., B-12.

292. REGISTER OF WARRANTS, 1841-86, 1899-May 1925. 11 vols. (one vol. not labeled, 3-5, 9-12, 1-3). Title varies: Register of Orders, 1841-86, 1899-1910, 8 vols. June 1925- in Receipts, Appropriations & Disbursements, entry 288.

Record of disbursement of county funds, showing date, number and amount of warrant, names of payee and fund, appropriation number, and date warrant redeemed. Arr. chron. by dates of warrants. No index. Hdw. 600 pp. 18 x 12 x 3. 8 vols., 1841-86, 1899-1910, bsmt. vt., B-6; 1 vol., 1908-June 1916, bsmt. vt., B-12; 2 vols., July 1916-May 1925, aud. off.

293. [SETTLEMENT SHEETS], 1880-. 15 bdls., 2 f. d.
Semiannual settlement sheets of state and county revenue and other taxes, showing date of settlement, amounts of state tax, benevolent institution fund tax, state department sinking fund, soldiers' and sailors' monument fund, state school tax, permanent endowment fund of Indiana University, county, township, tuition, special school, road, special road, pike, dog, library, corporation, street and street light, fire, public improvement, special dog and bridge taxes. Arr. chron. by dates of settlement. No index. Hdw. Bdls., 36 x 18 x 10; f. d., 6 x 12 x 26. 15 bdls., 1880-1931, bsmt. vt., B-6; 2 f. d., 1932-, treas. vt.

294. TOWNSHIP SETTLEMENT SHEETS, 1915-. 3 vols.
Record of township trustees' annual financial settlements with auditor, showing date of settlement, names of township and fund, balance in each fund, total settlement, and total balance in all funds. Arr. chron. by dates of settlements. No index. Hdw. 150 pp. 18 x 16 x 1½. 1 vol., 1915-27, bsmt. vt., B-12; 2 vols., 1928-, aud. off.

295. [SETTLEMENT SHEETS], 1929-. 2 f. d.
Settlement sheets for semiannual distribution of tax revenue among various taxing units, showing date of settlement, names of taxing unit and fund, and kind and amount of tax collected, delinquent and apportioned. Arr. chron. by dates of settlement. No index. Hdw. 4 x 24 x 24. 1 f. d., 1929-35, bsmt. vt., B-12; 1 f. d., 1936-, aud. off.

296. CERTIFICATE OF DISTRIBUTION, 1926-. 3 vols.
Copies of certificates of distribution of tax collections to various taxing units, showing date of certificate, names of taxing unit, payee and fund, amounts of each fund distributed, and amount and number of warrant. Arr. chron. by dates of certificates. No index. 1926-33, hdw.; 1934-, typed. 200 pp. 12 x 10 x 1. 2 vols., 1926-33, bsmt. vt., B-12; 1 vol., 1934-, aud. off.

297. CIRCUIT COURT ALLOWANCES, 1885-1903, 1935-. 12 f. b.
Orders of allowance for services, mileage and merchandise furnished the court, showing dates of order and filing, court term, name and address of claimant, name of official, amounts of allowance and warrant, fund and warrant numbers, and itemized statement of claim. Arr. chron. by dates of claims. No index. Hdw. 11 x 5 x 14. 11 f. b., 1885-Mar. 1903, bsmt. vt., B-12; 1 f. b., 1935-, aud. off.

298. AUDITOR'S VENUE RECORD, 1899-. 1 vol.
Record of receipts and disbursements of costs in causes venued

to and from adjoining counties, showing date and amount of receipt or disbursement, title and number of cause, name of adjoining county, and receipt or warrant number. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 150 pp. 18 x 12 x 2. Aud. off.

For other change of venue records, see entries 211, 299.

299. CHANGE OF VENUE CLAIMS, 1915-. 4 f. b.

Court allowances for costs incurred in causes venued to other counties, showing dates of filing, venue, disposition and allowance, names of plaintiff and defendant, number and nature of cause, court proceedings, amount of allowance, warrant number, itemized statement of costs, and total costs. Arr. chron. by dates of allowances. No index. Hdw. and typed. 11 x 5 x 14. Aud. off.

For other change of venue records, see entries 211, 298.

300. STATE BOARD OF ACCOUNTS EXAMINERS VOUCHER, 1910-. 1 f. b. Per diem and expense vouchers filed by field examiners of state board of accounts, showing dates of voucher and filing, names of examiner and office, amount of voucher, itemized statement of expenses, and voucher and warrant numbers. Arr. chron. by dates of voucher. No index. Typed. 11 x 5 x 14. Aud. off.

301. INSANITY INQUEST [Allowances], 1911-. 1 f. b.

Court orders of allowances and claims filed with auditor for admittance and inquest fees, medical service, transportation, and clothing furnished persons admitted and committed to state institutions, showing dates of claim and filing, names of claimant, institution and person admitted or committed, amounts of claim and warrant, warrant number, and itemized schedule of claim. Arr. chron. by dates of filing. No index. Hdw. 11 x 5 x 14. Aud. off.

For other insanity records, see entries 124-126, 159.

302. REGISTER OF POOR FUND CLAIMS, 1897-1901, 1912-. 4 vols.

Register of poor fund claims filed by vendors and paid by auditor, showing dates of filing and warrant, names of vendor and township, amounts and numbers of claim and warrant, and amount paid by federal government. Arr. by twps., thereunder chron. by dates of filing. No index. Hdw. 225 pp. 12 x 18 x 2. Aud. off.

303. REGISTER OF WARRANTS, June 1925-. 14 vols.

Duplicate of warrants drawn on treasurer, showing date, amount and number of warrant, names of payee and fund, appropriation number, and nature of expenditure. Arr. num. by warrant nos. No index. Hdw. 600 pp. 18 x 14 x 3. Aud. off.

304. CANCELLED WARRANTS, 1931-. 17 f. b.

Canceled warrants issued in payment of claims against county funds, showing dates issued, received and redeemed, names of payee and fund, claim, warrant, appropriation and ledger folio numbers, and amount and purpose of warrant. Arr. num. by warrant nos. No index. Typed. 11 x 5 x 14. Aud. off.

305. REGISTER OF WARRANTS OLD AGE PENSIONS, 1936-. 7 vols. Duplicates of warrants issued by auditor for payments of public assistance and administrative expenses of welfare department, showing date, amount and nature of warrant, name and address of payee, and application, appropriation and warrant numbers. Arr. num. by warrant nos. No index. Typed. 600 pp. 18 x 12 x 5. Aud. off.

For other old-age assistance records, see entries 98, 99, 399-408, 416, 417.

306. [APPLICATIONS TO PAY AND QUIETUS], Mar. 1935-. 1 vol. Triplicate copies of auditor's application to pay and quietus, showing date, amount and number of instrument, names of payer and fund, and nature of payment. This is a combination of two records formerly kept separately: Application to Pay, entry 307; Auditor's Quietus, entry 308. Arr. num. by instrument nos. No index. Typed. 300 pp. 18 x 12 x 2. Aud. off.

307. APPLICATION TO PAY, 1894-Feb. 1935. 12 vols. 1935- in [Applications To Pay and Quietus], entry 306. Stubs of application to pay funds other than taxes into treasury, showing date and amount of application, names of applicant and fund, application number, and nature of payment. Arr. num. by application nos. No index. Hdw. 15 x 12 x 2. Bsmt. vt., B-12.

308. AUDITOR'S QUIETUS, 1907-8, 1910-32. 11 vols. (4, 6-13, 11, one vol. not labeled). 1935- in [Applications To Pay and Quietus], entry 306. Stubs of quietuses issued by auditor, showing date, amount and number of quietus, names of payer and fund, and nature of payment. Arr. num. by quietus nos. No index. Hdw. 300 pp. 14 x 12 x 2. Bsmt. vt., B-12.

309. TREASURER'S RECEIPTS, 1915-17, 1920-23, 1936-. 5 f. b.

Receipts for all payments other than taxes issued by treasurer and filed with auditor to obtain quietuses, showing date, amount and number of receipt, names of payer and fund, and nature of payment. Arr. num. by receipt nos. No index. Typed. 11 x 5 x 14. Aud. off.

310 [REGISTER OF QUIETUS], 1841-95. 1 vol.

Register of quietuses issued, showing date, amount and number of quietus, names of payer and fund, and nature of transaction. Arr. chron. by dates of quietuses. No index. Hdw. 300 pp. 18 x 11 x 2. Bsmt. vt., B-6.

311. RECORD [Unredeemed Orders], 1845-65, 1880-94. 2 vols. Title varies: Day Book, 1861-65, 1 vol. Lists of county orders drawn on treasurer and not redeemed, 1845-65, 1883-92, showing date of list, date, amount and number of order, names of payee and fund, nature of allowance, and disposition. Also contains: Record of Board of Review, 1880-94, entry 235. Arr. chron. by dates of lists. No index. Hdw. 570 pp. 14 x 9 x 2. Bsmt. vt., B-6.

312. AUDITORS CASH BOOK [Unredeemed Warrants], 1901-11. 3 vols.

Register of outstanding warrants, showing date, amount and number of warrant, and names of payee and fund. Arr. chron. by dates of warrants. No index. Hdw. 500 pp. 18 x 12 x 3. Bsmt. vt., B-12.

313. WARRANTS, TOWNSHIP FUND, 1906-8. 1 vol. (1). Stubs of warrants issued by auditor for distribution of taxes, showing dates, amount and number of warrant, names of payee and fund, and amount of each fund distributed. Arr. num. by warrant nos. No index. Hdw. 100 pp. 18 x 12 x 1½. Bsmt. vt., B-12.

PUBLIC IMPROVEMENTS (see also entries 19-21, 256-258, 425-435)

314. PUBLIC IMPROVEMENT RECORD, 1921-. 2 vols. Record of expenditures for construction projects, showing number, nature and amount of contract, date awarded, name of contractor, amounts of appropriation and bond sales, name of payee, date and number of warrant, nature of expenditure, amount paid on contract, and balance. Arr. chron. by dates contracts awarded. No index. Hdw. 250 pp. 16 x 12 x 2. 1 vol., 1921-31, bsmt. vt., B-12; 1 vol., 1932-, aud. off.

315. REGISTER OF APPROPRIATIONS AND DISBURSEMENTS OF FREE TURNPIKE REPAIR FUNDS, 1900-1914. 2 vols. (one vol. not labeled, 2).

Record of appropriations and disbursements for labor and materials used on free gravel roads, showing date, amount and number of warrant, name of payee, road number, and amounts of appropriation and total disbursements for each road. Arr. by names of roads. No index. Hdw. 150 pp. 18 x 18 x 1. Bsmt. vt., B-12.

316. FREE GRAVEL ROAD RECORD, 1885-1915. 2 vols. (2, 5). Record of claims allowed by board of commissioners for construction and maintenances of free gravel roads, showing date and amount of allowance, names of claimant and assistant road superintendent, and road number. Arr. chron. by dates of allowances. No index. 1885-Feb. 1911, hdw.; Mar. 1911-15, typed. 500 pp. 18 x 14 x 3. Bsmt. vt., B-12.

317. RECEIPTS F[ree] G[ravel] R[oads], 1915-1916, 1926-27, 1931-33. 4 f. b.

Receipts for payments for labor and materials used for maintenance of free gravel roads, showing dates of receipt and filing, names of assistant road superintendent and payee, and amount, number and nature of receipt. Arr. num. by receipt nos. No index. Hdw. 11 x 5 x 14. Aud. off.

TAXES

APPRAISEMENTS

318. TRANSFER BOOK, 1850-. 262 vols. (labeled by taxing units).

Record of ownership and transfers of title of real property, showing names of owner, grantor and grantee, location and description of property, valuation of lands, lots and improvements, kind of deed, dates of instrument and transfer, and amount of fee. Arr. alph. by names of grantees and owners. No index. Hdw. 250 pp. 17 x 12 x 2. 227 vols., 1850-1932, bsmt. vt., B-12; 35 vols., 1933-, aud. off.

319. VALUATION OF REAL ESTATE, 1864, 1869. 2 vols.

Record of valuations of real estate for purpose of tax assessments, showing date of valuation, names of taxing unit and taxpayer, location and description of property, valuation of land, improvements and total, number of polls, and amount of taxes payable. Arr. by taxing units, thereunder alph. by names of taxpayers. No index. Hdw. 250 pp. 18 x 19 x 2. Bsmt. vt., B-6.

ASSESSMENT LISTS

320. ASSESSOR BOOK, 1854-. 1,174 vols. (dated). Subtitled by names of taxing units.

Record of real and personal property for assessors use in ascertaining value of property for tax purposes, showing date of assessment, names of property owner and taxing unit, location and description of property and improvements, valuation of real property and improvements, valuations of personal

property by township and county assessors and board of review, total taxables, exemptions, number of polls, and net amount of taxables. Arr. alph. by names of property owner. No index. Hdw. 140 pp. 13 x 12 x 1. 985 vols., 1854-1932, bsmt. vt., B-6; 60 vols., 1895-1914, bsmt. vt., B-7; 57 vols., 1932-35, bsmt. vt., B-12; 72 vols., 1936-, assr. off.

321. PERSONAL ASS[ess]M[en]TS, 1850-. 1,340 vols. (dated). Original schedules of assessments for taxation of personal property, showing date of assessment, name and address of taxpayer, name of taxing unit, itemized schedule of valuation of personal property, and total valuations fixed by township and county assessors and board of review. Arr. by taxing units, thereunder alph. by names of taxpayers. No index. Hdw. 300 pp. 14 x 9 x 2½. 262 vols., 1850-1912, bsmt. vt., B-7; 884 vols., 1889-1933, bsmt. vt., B-6; 57 vols., 1932-34, bsmt. vt., B-12; 137 vols., 1935-, assr. off.

322. REAL ESTATE ASSESSMENT, 1876-. 155 vols. (dated). Assessment lists of real estate and improvements, showing date of assessment, names of taxpayer and taxing unit, location and description of property, valuation of land and improvements, and total. Arr. alph. by names of taxpayers. No index. Hdw. 300 pp. 14 x 9 x 1. 149 vols., 1876-1938, bsmt. vt., B-6; 6 vols., 1939, assr. off.

323. [ABSTRACT SHEET OF ASSESSMENT OF PROPERTY], 1918, 1921-. 2 f. d.

Copies of abstracts of assessments of property in county, showing date of abstract, names of taxing units, number of acres, true value of lands, lots and improvements, total real property taxes, total value of personal property, number of polls, total taxables, and amount of deductions claimed on exemptions. Arr. chron. by dates of abstracts. No index. Hdw. 4 x 24 x 24. 1 f. b., 1918, 1921-35, bsmt. vt., B-12; 1 f. d., 1936-, aud. off.

EXEMPTIONS

324. MORTGAGE EXEMPTION, 1899, 1901, 1913, 1915, 1918-. 125 vols. (dated).

Original affidavits of mortgage indebtedness filed to obtain tax exemptions, showing dates of affidavit and filing, names of taxing unit and mortgagor, name and address of mortgagee, amount of mortgage unpaid, affidavit number, location, description and assessed valuation of property, and volume and page reference to Mortgage Record, entry 86. Arr. by taxing units, thereunder alph. by names of mortgagors. No index.

Hdw. 400 pp. 16 x 11 x 2. 2 vols., 1899, 1918, bsmt. vt., B-7; 20 vols., 1901, 1932-35, bsmt. vt., B-12; 68 vols., 1913, 1915, 1918-31, bsmt. vt., B-6; 35 vols., 1936-, assr. off.

325. SOLDIER TAX EXEMPTION AFFIDAVITS, 1926-. 1 f. b.

Affidavits of soldiers, sailors, marines, nurses and pensioned widows of such service men filed with auditor to obtain tax exemptions, showing date of affidavit, year and amount of exemption claimed, name, address and age of affiant, pension certificate or compensation award number, type of service, and location and description of property. Arr. by twps., thereunder chron. by dates of affidavits. No index. Hdw. 11 x 5 x 14. Aud. off.

DUPLICATES

326. GRAVEL ROAD TAX DUPLICATE, 1867-68, 1870-74, 1877-79, 1887-95. 9 vols. (dated).

Record of assessments against property owners for construction of gravel roads, showing date of assessment, names of property owner and taxing unit, location and description of property, and amounts of assessed and delinquent tax. Arr. by taxing units, thereunder alph. by names of property owners. No index. Hdw. 160 pp. 16 x 16 x 2. 6 vols., 1867-68, 1870, 1872-73, 1877-79, bsmt. vt., B-7; 2 vols., 1871, 1874, bsmt. vt., B-6; 1 vol., 1887-95, bsmt. vt., B-13.

DELINQUENT AND ERRONEOUS

327. REGISTER OF TAX SALE, 1842-. 3 vols. (1, two vols. not labeled).

Register of sales of lands and lots for delinquent taxes, showing dates of sale, redemption and deed, names of owner, taxing unit, purchaser and redeemer or grantee, amounts of sale and redemption, certificate and quietus numbers, and location and description of property. Arr. chron. by dates of sales. No index. Hdw. 450 pp. 18 x 12 x 2. 2 vols., 1842-1907, bsmt. vt., B-12; 1 vol., 1908-, aud. off.

328. TAX CERTIFICATE SALE, 1897-. 3 f. b.

Original certificates of sale of property for delinquent taxes, showing dates of sale, certificate, redemption and filing, names of owner, purchaser and taxing unit, amount of sale, certificate and tax duplicate numbers, and location and description of property. Arr. num. by certificate nos. No index. Hdw. 11 x 5 x 14. 2 f. b., 1897-1935, bsmt. vt., B-12; 1 f. b., 1936-, aud. off.

329. AUDITOR'S CERTIFICATE OF ERRONEOUS TAXES, 1902-
3 vols.

Stubs and duplicates of certificates of erroneous taxes issued by auditor to treasurer for correction of tax duplicates, showing date of certificate, names of taxpayer and taxing unit, location and description of property, amount and nature of error, and certificate and tax duplicate numbers. Arr. chron. by dates of certificates. No index. Hdw. 300 pp. 18 x 12 x 2. Aud. off.

330. ERRONEOUS ASSESSMENTS, 1912-27, 1936-. 2 f. b.
Original certificates of erroneous taxes issued by auditor for correction of tax duplicates by treasurer, showing same information as in entry 329. Arr. chron. by dates of certificates. No index. Hdw. 11 x 5 x 14. Aud. off.

331. ORDERS FROM STATE TAX BOARD, 1927-. 1 f. b.
Orders from state board of tax commissioners to auditor for correction of assessments, showing date of order, year of assessment, name and address of taxpayer, amounts of assessed valuation and corrected assessment, file and order numbers. Arr. chron. by dates of orders. No index. Typed. 11 x 5 x 14. Aud. off.

332. APPLICATION FOR MORATORIUM, 1935-. 1 f. b.
Copies of taxpayers' declarations of intent to use installment plan for payment of delinquent taxes, showing date of declaration, names of taxpayer and taxing unit, location and description of property, and declaration and tax duplicate numbers. Arr. num. by declaration nos. No index. Typed. 11 x 5 x 14. Aud. off.

333. REFUND OF MORT[gage] TAX FEE, 1933. 1 f. b.
Claims for refunds (act of 1933) of mortgage fees paid recorder, with recorder's original receipts attached, showing dates of receipt, claim and filing, name and address of claimant, name of person in whose name mortgage is recorded, amounts of claim and receipt, and receipt and warrant numbers. Arr. chron. by dates of filing. No index. Hdw. 11 x 5 x 14. Aud. off.

PLATS

334. PLAT BOOK, 1851-. 153 vols. (dated).
Plats of civil townships, showing sections, quarter sections, grants, divisions, subdivisions, lots and parts of lots, names of owners, and assessed valuation of real estate and improvements. Arr. by civil townships. No index. Hdw. 100 pp. 16 x 10 x ½. 91 vols., 1851-1924, bsmt. vt., B-6; 40 vols., 1925-31, bsmt. vt., B-13; 22 vols., 1932-, aud. off.

SCHOOL, TRUST, AND CEMETERY FUNDS
(For other school fund records, see entries
88, 89, 243-245, 275-277)

335. INVENTORY OF TRUST OR SCHOOL FUND LOANS, 1889-.
1 vol.

Annual inventory of school and trust fund loans, showing date of inventory, date, number and amount of mortgage, name of fund, amounts of principal and interest due, and amount represented by forfeited land. Arr. chron. by dates of inventories. No index. Hdw. 470 pp. 18 x 12 x 3. Aud. off.

336. RECORD OF CONDITION OF COMMON AND CONGRESSIONAL
TOWNSHIP FUND READJUSTMENT, 1912-. 1 vol. (1).

Record of condition of common and Congressional school funds, showing date of balance, amount held in trust, loans and certificates in force, cash in treasury, amount due from county, loans paid, losses paid by county, fines and forfeitures, damages, amount transferred from other counties, miscellaneous sources and total receipts, amount transferred to other counties, loans made, loans absorbed by certificates of purchase, losses sustained by county, and balance. Arr. chron. by dates of balances. No index. Hdw. 16 x 14 x 2. Aud. off.

337. REGISTER OF SCHOOL FUND LOANS, 1838-1912, 1934-.
5 vols. (2, 3, one vol. not labeled, 1, 2).

Record of school fund loans, showing date, number and amount of mortgage, name of mortgagor, location and description of property, schedule of interest payments, and dates of payment of interest and principal. Arr. chron. by dates of loans. Indexed alph. by names of mortgagors. Hdw. 300 pp. 18 x 12 x 1½. Bsmt. vt., B-12.

338. REGISTER OF CEMETERY FUND LOANS, 1922-. 1 vol.

Register of mortgage loans made from cemetery funds held in trust, showing dates of loan, maturity, payment and recording, names of mortgagor and fund, amount and number of loan, amounts of interest and principal payments, and location and description of property. Arr. num. by loan nos. Indexed alph. by names of mortgagors. Hdw. 325 pp. 16 x 11 x 3. Aud. off.

339. SCHOOL FUND LOAN PAYMENTS, 1933-. 1 vol.

Register of school fund interest contracts and record of repayments, showing date of mortgage, contract and loan number, name of mortgagor, amount of mortgage, schedule of interest payments, date of payment, and treasurer's receipt number. Arr. num. by loan nos. No index. Hdw. 400 pp. 18 x 12 x 3. Aud. off.

340. REPORT ON SCHOOL CITY OF SHELBYVILLE, 1911-13, 1932-.
8 f. b. Title varies: Canceled Warrants & Receipts of School City of Shelbyville, 1911-13, 1932-35. 5 f. b.

Copies of warrants and receipts by treasurer of city school board for receipts and disbursements of school funds and statements of financial standing, showing date, number and amount of warrant and receipt, names of payer, payee and fund, nature of transaction, total receipts and disbursements, and balances. Arr. chron. by dates of warrants and receipts. No index. Hdw. and typed. 11 x 5 x 14. Aud. off.

341. [REGISTER OF PRINCIPAL AND INTEREST], 1838-Feb. 14, 1899. 1 vol.

Record of payments of principal and interest on common school fund loans, showing loan number, name of mortgagor, amount of mortgage, and dates of payments of interest installments and principal. Arr. num. by loan nos. No index. Hdw. 300 pp. 18 x 12 x 2. Bsmt. vt., B-6.

342. REGISTER OF PRINCIPAL AND INTEREST, 1839-May 2, 1898. 2 vols.

Record of payments of principal and interest on Congressional school fund loans, showing same information as in entry 341. Arr. num. by loan nos. No index. Hdw. 300 pp. 18 x 12 x 2. Bsmt. vt., B-6.

343. MISCELLANEOUS SCHOOL FUND ACCOUNTS, June 11, 1879-Mar. 29, 1898. 1 vol.

Record of payments of principal and interest on miscellaneous school fund loans, showing same information as in entry 341. Arr. num. by loan nos. Indexed alph. by names of mortgagors. Hdw. 109 pp. 18 x 12 x 1. Bsmt. vt., B-6.

344. SCHOOL FUND QUIETUS, 1898-1902. 1 vol.

Stubs of school fund quietuses issued by auditor upon presentation of treasurer's receipts, showing date, amount and number of quietus, names of payer and fund, and loan number. Arr. num. by quietus nos. No index. Hdw. 100 pp. 18 x 15 x 1½. Bsmt. vt., B-12.

345. REGISTER OF RECEIPTS [Trust Funds], 1850-69. 1 vol. Register of treasurer's receipts for payments on school fund loans, showing date, amount and number of receipt, names of payer and fund, and nature of payment. Arr. chron. by dates of receipts. No index. Hdw. 275 pp. 16 x 11 x 2. Bsmt. vt., B-7.

346. REGISTER OF ORDERS [Trust Funds], 1850-66. 1 vol. Register of orders drawn on treasurer for disbursement of

trust funds, showing date, amount and number of order, and names of payee and fund. Arr. chron. by dates of orders. No index. Hdw. 300 pp. 16 x 11 x 2. Bsmt. vt., B-6.

347. ORDERS SCHOOL FUND LOANS, 1890. 1 f. b.

Orders drawn by auditor on treasurer to disburse school funds, showing date of order, names of mortgagor and fund, number and amount of order, and term of loan. Arr. chron. by dates of orders. No index. 6 x 6 x 12. Bsmt. vt., B-12.

348. [SALE OF SCHOOL LANDS], 1829-51, 12 vols. (labeled by township and range nos.).

Record of sale of school lands, showing date of sale, location and description of property, amount of sale, rate of interest, and name of purchaser. Arr. chron. by dates of sales. No index. Hdw. 200 pp. 14 x 9 x 2. Bsmt. vt., B-6.

OFFICIAL BONDS

(See also entries 24-32)

349. OFFICIAL BOND RECORD, 1822-1919. 6 vols (1, 2, three vols. not labeled, 2). 1923- in Commissioners' Record, entry 2.

Transcripts of bonds posted by county and township officials showing dates of bond, approval and recording, names of officials and sureties, amount and condition of bond, and title and term of office. Arr. chron. by dates of bonds. No index. Hdw. 200 pp. 18 x 12 x 2. Bsmt. vt., B-12.

350. TRUSTEES' BOND, 1861-1931. 3 vols. 1932- in Commissioners' Record, entry 2.

Record of surety bonds posted by township trustees, showing dates of bond, approval and recording, names of trustee, township and sureties, and amount and conditions of bond. Arr. chron. by dates of bonds. Indexed alph. by names of trustees. Hdw. 350 pp. 18 x 12 x 2. 1 vol., 1861-77, bsmt. vt., B-6; 2 vols., 1878-1931, bsmt. vt., B-12.

351. TRUSTEE BOND, 1932-. 1 f. b.

Original bonds posted by township trustees, showing date, amount and condition of bond, and names of township, trustee and sureties. Arr. chron. by dates of bonds. No index. Hdw. 11 x 5 x 14. Aud. off.

352. TOWNSHIP ASSESSORS' BOND RECORD, 1868, 1876-1928. 3 vols. 1932- in Commissioners' Record, entry 2.

Record of surety bonds posted by township assessors, showing dates of bond, approval and recording, names of assessor, township and sureties, and amount and conditions of bond.

Arr. chron. by dates of recording. No index. Hdw. 200 pp. 16 x 11 x 2. 1 vol., 1868, bsmt. vt., B-7; 2 vols., 1876-1928, bsmt. vt., B-6.

353. REGISTER OF OFFICERS, 1854-92. 1 vol.

Register of bonded county and township officials, showing names of official, office and sureties, dates of commission, bond and expiration, and amount of bond. Arr. chron. by dates of commissions. No index. Hdw. 450 pp. 16 x 12 x 2. Bsmt. vt., B-12.

MISCELLANEOUS

354. ENUMERATION, 1913, 1919, 1925, 1931, 1937. 75 vols. (labeled by taxing units).

Sexennial enumeration of white and colored male inhabitants of Shelby County over 21 years of age, showing date of enumeration, name, address, age and color of male, name of taxing unit, and register number. Arr. alph. by names of males. No index. Hdw. 50 pp. 14 x 9 x ½. 2 vols., 1913, bsmt. vt., B-7; 12 vols., 1913, bsmt. vt., B-6; 19 vols., 1913, 1919, bsmt. vt., B-12; 27 vols., 1925, 1931, bsmt. vt., B-13; 15 vols., 1937, aud. off.

355. RECORD OF ELECTION COUNTY SCHOOL SUPERINTENDENTS, 1903-. 1 vol.

Record of elections of county school superintendents, showing date and place of meeting, names of trustees and candidates, roll call, and results of votes cast. Arr. chron. by dates of elections. No index. Hdw. 225 pp. 16 x 10 x 1½. Aud. off.

356. TRUSTEE HOSPITAL CERTIFICATES, 1926-. 2 f. b.

Auditor's copies of trustees' hospital certificates authorizing admittance of patients to state hospitals, showing date of certificate, names of county, township, hospital and patient, and length of patient's residence in township. Arr. chron. by dates of certificates. No index. Hdw. 11 x 5 x 14. Aud. off.

357. WAREHOUSE PERMITS, 1934-. 1 f. b.

Copies of permits to operate warehouses in county, showing date of permit, name of company, kind and location of warehouse, and conditions of permit. Arr. chron. by dates of permits. No index. Hdw. and typed. 11 x 5 x 14. Aud. off.

358. [KENNEL LICENSES], 1937-. 2 vols.

Duplicates of kennel licenses issued by auditor, showing date of license, license number, amount of fee paid, name and address of licensee, type of kennel, and number and breed of dogs kept. Arr. num. by license nos. No index. Hdw. 25 pp. 16 x 8 x ½. Aud. off.

359. STATISTICAL BOOK, 1914, 1916-18. 7 vols. (dated).

Discontinued.

Statistical statements of farm acreages, farm production and livestock compiled annually by township assessors and filed with auditor for report to bureau of statistics, showing date of statement, names of farmer, assessor and township, statistical statement of farm acreage, production and livestock, and amount of each item. Arr. alph. by names of farmers. No index. Hdw. 128 pp. 16 x 15 x ½. Bsmt. vt., B-6.

360. AUDITOR OFFICE ORDER FOR BOUNTY, 1865-68. 1 vol. Stubs of orders drawn by auditor for payment of bounties to Civil War volunteers, showing date, amount and number of order, and names of payee and fund. Arr. chron. by dates of orders. No index. Hdw. 200 pp. 14 x 12 x 1. Bsmt. vt., B-6.

For other military records, see entries 17, 103.

361. SEMINARY TRUSTEE RECORD, 1833-Oct. 1851. 1 vol. (A). Minutes of meetings of board of trustees of county seminary, showing date of meeting, names of members present, subjects discussed, and actions taken. Arr. chron. by dates of meetings. No index. Hdw. 300 pp. 13 x 8 x 2. Bsmt. vt., B-6.

362. [COUNTY LIBRARY], 1825-May 1, 1836. 1 vol. (A). Minutes of meetings of board of trustees of county library, showing date of meeting, names of members present, subjects discussed, and actions taken. Arr. chron. by dates of meetings. No index. Hdw. 100 pp. 13 x 8½ x 2. Bsmt. vt., B-6.

MAPS

363. ATLAS OF SHELBY AND JOHNSON COUNTIES, 1900. 1 vol. Political and communication maps of the townships, corporations and counties of Shelby and Johnson counties, showing section, township and range lines and numbers, roads and highways, rivers and creeks, railroads, and electric lines, and cities and towns. Printed. Scale varies. 75 pp. 24 x 24 x ½. Bsmt. vt., B-12.

XVI. REGISTRATION OFFICER

LEGAL STATUS

The clerk of the circuit court serves ex officio as the registration officer of Shelby County, under the mandatory provisions of an act of 1933, as amended in 1935.¹

¹ Acts 1933, 1935; Burns, 1939 suppl., 29-306; Baldwin, 1935 suppl., 7304.

The registration officer may appoint as many deputy registration officers for the county as may be necessary. They are selected, as nearly as practicable, in equal numbers, from the two major political parties, on the written recommendation of the county chairman of each party. They receive a certificate of appointment which they must keep with them when about their official duties, and must take an oath administered by the clerk of the circuit court. The clerk of each city and town in the county is an ex officio deputy registration officer. A list of all deputy registration officers is kept in the office of the clerk of the circuit court, and is open to public inspection. All deputy registration officers act under the direction, supervision, and authority of the clerk of the circuit court. The appointed deputies may be removed from office by the clerk at any time.²

For each registration blank or transfer of registration which the clerk of the circuit court fills out and executes, he receives a sum of not to exceed 4 cents, and in addition thereto he receives reasonable compensation (fixed by the board of commissioners) for the additional services he renders as registration officer.³ Each deputy registration officer receives for his services the sum of not to exceed 5 cents for each registration blank or transfer of registration which he delivers, properly filled out and executed, to the clerk of the circuit court.⁴

The constitution prescribes the qualifications of voters.⁵ Amendments of the constitution in 1881 and 1926 directed the general assembly to provide for the registration of all persons entitled to vote.⁶

Many laws for registration have been enacted. An act of 1867, establishing a township board of registry, consisting of the township trustee and two freeholders appointed by the board of commissioners,⁷ was repealed in 1869.⁸ Acts 1889⁹ and 1891,¹⁰ providing for registration in the office of the

² *Ibid.*

³ Acts 1933, 1935; Burns, 1939 suppl., 29-329; Baldwin, 1935 suppl., 7327.

⁴ Acts 1933, 1935; Burns, 1939 suppl., 29-306; Baldwin, 1935 suppl., 7304.

⁵ Const. 1851, art. 2, sec. 2.

⁶ *Ibid.*, sec. 14 (as amended in 1881 and 1926).

⁷ Acts 1867, ch. 51, sec. 2.

⁸ Acts 1869 (Spec. Sess.), ch. 31, sec. 1.

⁹ Acts 1889, ch. 87, sec. 13.

¹⁰ Acts 1891, ch. 144, sec. 1.

clerk of the circuit court, were declared unconstitutional in 1890¹¹ and 1892,¹² respectively. An act of 1911, providing for a precinct registration board, consisting of a registration inspector (appointed by the board of commissioners) and two registration clerks (appointed by the registration inspector),¹³ was repealed in 1917.¹⁴ An act of 1917, creating a board of registration commissioners (generally called the "registration board"), consisting of the clerk of the circuit court and two qualified electors appointed by him (one from each of the two major political parties),¹⁵ was repealed in 1919.¹⁶ An act of 1919, creating precinct registration boards,¹⁷ was amended by an act of 1925, creating a registration board consisting of the auditor and a person of opposite political faith appointed by him;¹⁸ and both acts were repealed in 1927.¹⁹ From 1927 until 1933 there was no registration system. Acts of 1933 and 1935 established the present system of registration.²⁰

FUNCTIONS AND RECORDS

Registration of all voters is a requirement for voting at any general election, primary election, city election, or any special election in which all qualified voters of the state may participate. Such registration must be made at least 29 days before the election.²¹ On proper application every person is entitled to register for voting in the precinct in which he resides, provided such person (a) will be at least 21 years old at the next ensuing general election or city election, (b) is a citizen of the United States, and (c) will, at the time of such election (if he continues to reside in the same precinct), have resided in the state 6 months, in the township 60 days, and in the precinct 30 days.²²

¹¹ *Morris v. Powell* (1890), 125 Ind. 281, 25 N. E. 221.

¹² *Brewer v. McClelland* (1892), 144 Ind. 423, 32 N. E. 299.

¹³ Acts 1911, ch. 150, secs. 3-15.

¹⁴ Acts 1917, ch. 139, sec. 47.

¹⁵ *Ibid.*, sec. 4.

¹⁶ Acts 1919, ch. 150, sec. 1.

¹⁷ *Ibid.*, ch. 186, sec. 4.

¹⁸ Acts 1925, ch. 138, sec. 1.

¹⁹ Acts 1927, ch. 195, sec. 1.

²⁰ Acts 1933, 1935; Burns, 1939 suppl., 29-306; Baldwin, 1935 suppl., 7304.

²¹ Acts 1933; Burns 29-301, 29-307; Baldwin 7299, 7305. Acts 1933, 1935; Burns, 1939 suppl.,

29-336; Baldwin, 1935 suppl., 7334.

²² Acts 1933; Burns 29-328; Baldwin 7326.

The registration officer has full charge and control of the registration of the voters and provides all the necessary books and supplies.²³ The deputy registration officers may register voters at such places within the county as the clerk of the circuit court shall designate and which will be deemed most convenient to large numbers of voters without reference to precincts.²⁴ They can administer all oaths required by the registration laws.²⁵

The official registration books consist of the original affidavits of registration, fastened in binders,²⁶ and constitute a permanent registration record. The clerk also keeps a duplicate set of these affidavits.²⁷ The clerk, not later than 10 days before the election, prepares typewritten or photostatic copies of the registration list of each precinct in the county, and delivers one copy to the county chairman of each of the two major political parties. Two copies of the list are delivered to each election inspector, as a part of the sealed package of election supplies, to be used at the polls on election day. Other copies may be publicly inspected at the office of the clerk as soon as they are completed.²⁸

Except as hereinafter otherwise stated, any voter who is a resident of any precinct of this state, and whose name appears on the registration books of such precinct, is not required to register again, so long as he continues to reside in the same county in which he is registered and is not disfranchised for any cause described by the laws of the state.²⁹

If a voter's name is changed by marriage or by court order, the voter's previous registration cannot serve as a basis for voting unless before receiving a ballot the voter files a verified statement setting forth the name under which such voter is registered and the name of such voter as changed. This statement may be filed with the clerk of the circuit court on any day or with another member of the election board on election day.³⁰

²³ Acts 1933; Burns 29-309; Baldwin 7307.

²⁴ Acts 1933, 1935; Burns, 1939 suppl., 29-311; Baldwin, 1935 suppl., 7309.

²⁵ Acts 1933, 1935; Burns, 1939 suppl., 29-306; Baldwin, 1935 suppl., 7304.

²⁶ Acts 1933, 1935; Burns, 1939 suppl., 29-313; Baldwin, 1935 suppl., 7311. Acts 1933; Burns 29-315, 29-316; Baldwin 7313, 7314.

²⁷ Acts 1933; Burns 29-302; Baldwin 7300.

²⁸ Acts 1933, 1935; Burns, 1939 suppl., 29-317; Baldwin, 1935 suppl., 7315.

²⁹ Acts 1933; Burns 29-303, 29-308; Baldwin 7301, 7306.

³⁰ Acts 1933; Burns 29-330; Baldwin 7328.

The clerk will cancel the registration of any voter who requests such cancellation.³¹ On a change of residence within the county, any registered voter may cause his registration to be transferred to his new address by sending a transfer to the clerk or by applying in person to the clerk for such transfer. If a voter changes his residence from the county in which he is registered to some other county, he must register in the proper precinct of the county to which he has moved and sign a printed form authorizing the cancellation of the previous registration. Within 15 days thereafter the clerk of the latter county forwards this document to the clerk of the former county, who cancels the previous registration.³²

When the address of a voter (at which the voter continues to reside) is transferred to another precinct by a change of precinct boundaries or by creation of a new precinct, the clerk must transfer the voter's registration accordingly, and it is not necessary for the voter to apply for such transfer.³³

If the clerk of the circuit court mails to a registered voter, at his registered address, a notice stating that the clerk has received information (specifying the source thereof) that the voter has moved away from the county, precinct, or address at which he is registered, the registration of the voter will be canceled unless the voter applies for a continuance of registration within 30 days after the mailing of the notice.³⁴

Any voter of the county or city may challenge the registration of any registered voter of such county or city by submitting an affidavit to the clerk of the circuit court, not later than 2 weeks before any primary election, general election, or city election. This affidavit must state that such voter is not qualified to vote in the precinct in which he is registered and must specify reasons why such challenged voter is disqualified. The clerk then mails to the challenged voter, at his registered address, a notification of such challenge. In order to vote at such election the challenged voter must take an oath as required by law for voters challenged at an election. The oath may be taken before the clerk within 7 days after mailing the notice or may be taken before the election inspector at the election.³⁵

³¹ Acts 1933; Burns 29-324; Baldwin 7322.

³² Acts 1933, 1935; Burns, 1939 suppl., 29-314; Baldwin, 1935 suppl., 7312.

³³ Acts 1933; Burns 29-313; Baldwin 7316.

³⁴ Acts 1933; Burns 29-326; Baldwin 7324.

³⁵ Acts 1933; Burns 29-325; Baldwin 7323.

During the month of January following each general election the clerk must examine the registration books of each precinct and must note the names of all voters who have not voted within a period of 2 years. The clerk must then mail to each such voter, at his last known address, a notice on a printed form prescribed by law. The registration of any such voter will be canceled unless the voter applies for reinstatement of registration within 30 days after the mailing of such notice.³⁶

It is the duty of the registration officer to check the registration lists continually for deceased and disfranchised voters. Lists of deceased voters are obtained from local health officers,³⁷ and the clerk prepares a list of all disfranchised voters.³⁸

If the board of commissioners determines that the registration books of any precinct have been destroyed or mutilated or are inaccessible or for any other reasonable cause are unfit to be used, a new registration must be conducted in that precinct and every voter residing in that precinct must register.³⁹

The expense of the preparation of registration is paid out of the general fund of the county treasury, as directed by the board of county commissioners, after appropriation by the county council. The expense of preparing lists of registered voters for use in a city election is paid by the city, after appropriation by its common council.⁴⁰

All forms, blanks, records, and other supplies used in the registration of voters are prescribed by the state board of election commissioners for the purpose of uniformity in the registration records of the state.⁴¹

364. [REGISTRATION OF VOTERS], 1934-. 51 vols.

Permanent registration of all qualified voters, showing date of registration, names of township, voter and registration officer, age, sex, place of birth and address of voter, length of residence in state, county, precinct and ward, and registration, ward and precinct numbers. Arr. alph. by names of

³⁶ Acts 1933; Burns 29-320; Baldwin 7318.

³⁷ Acts 1933; Burns 29-321; Baldwin 7319.

³⁸ Acts 1933; Burns 29-322; Baldwin 7320.

³⁹ Acts 1933; Burns 29-304; Baldwin 7302.

⁴⁰ Acts 1933; Burns 29-305; Baldwin 7303.

⁴¹ Acts 1933; Burns 29-334; Baldwin 7332.

voters. No index. Hdw. and typed. 100 pp. 12 x 10 x 1. Clk. vt.

365. [PRECINCT REGISTRATIONS], 1934-. 71 vols.

Registration of qualified voters in each precinct, showing same information as in entry 364. Arr. alph. by names of voters. No index. Hdw. 100 pp. 12 x 10 x 1. Clk. vt.

366. [DECEASED VOTERS], 1934-. 2 vols.

Registration cards of deceased voters, showing same information as in entry 364. Arr. alph. by names of voters. No index. Hdw. 100 pp. 12 x 10 x 1. Clk. vt.

367. [CANCELLED REGISTRATIONS], 1934-. 3 cartons.

Canceled voters' registrations, showing same information as in entry 364. Arr. alph. by names of voters. No index. Hdw. 10 x 16 x 28. Bsmt. vt., B-13.

368. [REGISTRATION TRANSFERS], 1936-. 3 cartons.

Authorization cards for transfer of voters' registrations, showing date of transfer, names of voter and witnesses, former and present addresses, and ward and precinct numbers. Arr. alph. by names of voters. No index. Typed. 2 cartons, 4 x 10 x 4; 1 carton, 6 x 14 x 22. 2 cartons, 1936-37, bsmt. vt., B-13; 1 carton, 1938-, clk. vt.

XVII. BOARD OF PRIMARY ELECTION COMMISSIONERS

LEGAL STATUS

The board of primary election commissioners of Shelby County exists under the mandatory provisions of an act of 1915, as amended in 1917. The board is composed of the clerk of the circuit court and two persons appointed by him (one from each of the two major political parties, nominated by their respective county chairmen).¹ The appointed members must be electors of the county at the time of their appointment, must have been inhabitants thereof during the preceding year, must reside within the county after their appointment,² must serve as members of the county board of canvassers and county board of election commissioners during the calendar

¹ Acts 1915, 1917; Burns 29-504; Baldwin 7190. The amendment of 1917 merely added a compensatory provision which was superseded by an act of 1935. See footnote 6 herein.

² Const. 1851, art. 6, secs. 4, 6.

year in which they were appointed,³ must not hold any other appointive or elective public office,⁴ and must take an oath to support the state and federal constitutions and faithfully discharge their duties.⁵ Each member of the board is allowed \$125 for his services at any primary election.⁶

For sufficient legal grounds any member of the board of primary election commissioners may be removed by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.⁷ If any member is convicted of a felony the judgment of conviction must declare his office vacant.⁸ A vacancy in the office of an appointed member is filled through appointment by the clerk of the circuit court.⁹

Before 1907 nominations were strictly a party affair. At first candidates were proposed by a mass meeting, or by an informed caucus which could be a meeting of all the voters of the party in the precinct (township) or of party members interested sufficiently to attend (county and state). Out of the latter developed the party convention—an assembly of official delegates chosen by party officials such as precinct committeemen or county or district chairmen.¹⁰

Indiana was one of the first states to adopt the primary election as a means of choosing candidates. The law of 1889, which instituted the Australian ballot system, recognized the right of the party to hold a primary election, under the

³ Acts 1915, 1917; Burns 29-504; Baldwin 7190. Acts 1905, 1927; Burns 29-1401; Baldwin 7377. See the essays entitled "County Board of Canvassers" and "County Board of Election Commissioners."

⁴ Acts 1915, 1917; Burns 29-512; Baldwin 7188.

⁵ Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

⁶ Acts 1915, 1917; Burns 29-504; Baldwin 7190. Acts 1935; Burns, 1939 suppl., 29-1014; Baldwin, 1937 suppl., 7109-1.

Mandamus to compel appropriation for compensation. *Blue v. State ex rel. Powell* (1926), 210 Ind. 486, 1 N. E. (2d) 122.

⁷ Const. 1851, art. 2, sec. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁸ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁹ Acts 1915, 1917; Burns 29-504; Baldwin 7190.

For vacancy in the office of clerk, see the essay entitled "Clerk of the Circuit Court."

¹⁰ Alma Sickler Bender, *Why Go Back? . . . from the Direct Primary to the Convention System of Nomination* (Indianapolis, 1930), 21.

control of the chairman who certified the names of the nominees to the county board of election commissioners.¹¹

An act of 1901, applicable to all political parties casting 10 percent of the total vote at the preceding general election, provided for the organization of political parties and the holding of two primary elections—one for precinct committeemen, and one for direct nomination of candidates or for election of delegates to a nominating convention. The precinct committeemen elected at the first primary election determined whether the party candidates should be nominated at a primary election or by a delegate convention. For a primary election the party chairman was required to fix the date thereof and deliver to the county board of election commissioners the names of the candidates proposed by petition. This board was required to prepare the primary ballot. No two political parties could hold their primaries at the same time or place. Returns were made to the party board of primary election commissioners. This board declared the nominees of the party and the chairman of the board certified their names to the county board of election commissioners.¹²

The act of 1907 prescribed a compulsory direct primary election, under the supervision of a county board of primary election commissioners, for the nomination of party candidates for all county and township offices. This board consisted of the same membership as at present and its members acted as election commissioners at the general election. This primary election included all political parties casting 10 percent of the total vote at the preceding general election, and was conducted by bipartisan precinct election boards paid from county funds.¹³

FUNCTIONS AND RECORDS

The present primary election law provides for the nomination of candidates and the election of precinct committeemen and convention delegates, all in one primary election held biennially, at the same time and place, on the 1st Tuesday after the 1st Monday in May, in the even-numbered years. This law is mandatory as to each political party casting for its candidate for secretary of state 10 percent of the aggre-

¹¹ Acts 1889, ch. 87, secs. 17, 18, 26.

¹² Acts 1901, ch. 219, secs. 1-4, 6-11, 23.

¹³ Acts 1907, ch. 282, secs. 1, 2, 6, 10-15, 22, 57.

gate vote cast for all candidates for secretary of state at the last preceding general election held for that office.¹⁴

The board of primary election commissioners supervises primary elections. It prepares and distributes all ballots used in the county (except for town primaries)¹⁵—the names of candidates being arranged thereon in alphabetical order—¹⁶ and appoints the precinct board of election (consisting of one inspector and two election judges), two poll clerks, two assistant poll clerks (if needed), and two election sheriffs. These election officials are nominated by the county chairman of each of the two major political parties.¹⁷ The board may employ all necessary clerical assistants.¹⁸

At all primary elections the Australian ballot is used. It is made up of the printed tickets of the several political parties qualified for participation in the election. The tickets of each party are on paper of a color not used for the tickets of the other parties, but all tickets are uniform in size.¹⁹ Between 30 and 60 days before any primary election the declarations of candidacy for the offices of United States Senators and Representatives, state senators and representatives, and judicial officers (including the judge of the circuit court, prosecuting attorney, and justices of the peace) are filed by the candidates with the secretary of state and are certified by him to the clerk of the circuit court; and during the same time the declarations of candidacy for other offices (except town offices and those voted on by the voters of the whole state) are filed by the candidates with the clerk of the circuit court. Nominations for these offices are made at the primary election.²⁰ Nominations for dele-

¹⁴ Acts 1915; Burns 29-501; Baldwin 7187. Acts 1915, 1917, 1925, 1929; Burns 29-511, 29-512; Baldwin 7196, 7197. Acts 1915, 1939; Burns, 1939 suppl., 29-532; Baldwin, 1939 suppl., 7218.

"Courts of equity have no jurisdiction to interfere in the purely political activities of political party organizations." *State ex rel. Democratic Central Committee v. Superior Court* (1933), 214 Ind. 322, 15 N. E. (2d) 379.

¹⁵ Acts 1915, 1917; Burns 29-504; Baldwin 7190.

¹⁶ Acts 1915, 1937; Burns, 1939 suppl., 29-515; Baldwin, 1937 suppl., 7201.

¹⁷ Acts 1915; Burns 29-505; Baldwin 7191. Acts 1915, 1917; Burns 29-507; Baldwin 7193. Acts 1929, 1933; Burns 29-804 to 29-807; Baldwin 7093 to 7096. For compensation of the precinct election officials see the essay entitled "County Board of Election Commissioners."

¹⁸ Acts 1915, 1917; Burns 29-504; Baldwin 7190.

¹⁹ Acts 1915, 1917; Burns 29-504, 29-514; Baldwin 7190, 7200.

²⁰ Acts 1915; Burns 29-501; Baldwin 7187. Acts 1915, 1917, 1933, 1935; Burns, 1939 suppl., 29-513; Baldwin, 1935 suppl., 7199. Acts 1915, 1931, 1935; Burns, 1939 suppl., 29-516; Baldwin, 1935 suppl., 7202. Acts 1933; Burns 29-1807; Baldwin 11639.

gates to the state conventions of the respective parties are made by petitions filed with the clerk at least 30 days before the primary election. These delegates are elected at the primary election.²¹ The statutory provisions governing the manner of conducting general elections apply to all primary elections.²² All expenses of conducting primary elections are paid from public funds.²³

Certificates and petitions of nominations, ballots (cast and uncast), and tally papers at primary elections are filed in the office of the clerk of the circuit court where they are preserved for 6 months and are then destroyed, unless litigation requires preservation for a longer time.²⁴

369. [PRIMARY ELECTION RECORD], 1916-. In [General Election Record], entry 373.

Sample ballots and record of number of ballots printed, distributed and returned, showing same information as in entry 373.

370. [ABSENT VOTERS PRIMARY ELECTIONS], 1923-. 1 cabinet. Record of absent voters ballots in primary elections, showing name of elector, dates application received, ballot mailed and received from elector, address to which ballot mailed, and ward and precinct numbers or name of township. Also contains: [Absent Voters, General Elections], entry 374. Arr. chron. by dates ballots received. No index. Hdw. Bsmt. vt., B-13.

371. ELECTIONS [Papers], 1926-28, 1934, 1936, 1938-. 3 f. b., 1 f. d.

Papers pertaining to elections, including:

- i. Declarations of candidates for nomination, showing dates of declaration, election and filing, names of candidate and office, and party affiliation.
- ii. Candidates' statements of expenses, showing date of statement, names of candidate and office, and itemized list of expenses.

The prosecuting attorney is a judicial officer. State *ex rel.* Freed v. Circuit Court (1938), 214 Ind. 152, 14 N. E. (2d) 910; State *ex rel.* Spencer v. Criminal Court (1936), 214 Ind. 551, 15 N. E. (2d) 1020.

²¹ Acts 1915, 1939; Burns, 1939 suppl., 29-532; Baldwin, 1939 suppl., 7218.

²² Acts 1915; Burns 29-556, 29-559; Baldwin 7242, 7244.

²³ Acts 1915; Burns 29-534; Baldwin 7220. Acts 1933; Burns 29-1805; Baldwin 11637.

²⁴ Acts 1915, 1917; Burns 29-525; Baldwin 7211. Acts 1889; Burns 29-1009; Baldwin 7113. Acts 1915; Burns 29-1304; Baldwin 7456. Acts 1911; Burns 29-2510; Baldwin 7447.

Also Contains: [Candidates' Expenses, General Elections], entry 375. Arr. chron. by dates of filing. No index. Hdw. F. b., 5 x 4 x 11; f. d., 12 x 12 x 24. 3 f. b., 1926-28, 1934, 1936, bsmt. vt., B-13; 1 f. d., 1938-, clk. vt.

XVIII. COUNTY BOARD OF CANVASSERS

LEGAL STATUS

The board of canvassers of Shelby County exists under the mandatory provisions of an act of 1905, as amended in 1927. The county board which controls the holding of an election (board of primary election commissioners or county board of election commissioners) must also serve as the county board of canvassers at that election.¹ The board elects its own chairman, and the clerk of the circuit court acts as its clerk.²

Before 1848 the canvass of votes was made by the election judges and inspectors.³ The board of canvassers, established in 1843, consisted of the inspectors from the several townships, who selected one of its members as chairman. The clerk of the circuit court served as clerk. This board was continued until 1905.⁴

FUNCTIONS AND RECORDS

The members of the county board of canvassers are required to assemble at 6 p. m. on the day of each general election, in the courtroom of the circuit court, to canvass and estimate the certificates, poll lists, and tally papers returned by the election inspectors;⁵ to aggregate and tabulate therefrom all votes cast in the county; and to declare in a certified statement the candidates elected for the county,

¹ Acts 1905, 1927; Burns 29-1401; Baldwin 7377. See the essays entitled "Board of Primary Election Commissioners" and "County Board of Election Commissioners."

The amendment of 1927 merely added a provision applicable only to Marion County.

² Acts 1905; Burns 29-1402; Baldwin 7378.

³ Acts 1813-17 ch. 9, secs. 11, 12. Acts 1817-18 (general), ch. 15, secs. 11, 12. Rev. Laws 1824, ch. 35, secs. 11, 12. Rev. Laws 1831, ch. 32, secs. 11, 12. Rev. Stat. 1838, ch. 32, secs. 13, 14.

⁴ Rev. Stat. 1843, ch. 5, secs. 45-47. 1 Rev. Stat. 1852, ch. 31, secs. 31-33. Acts 1881 (Spec. Sess.), ch. 47, sec. 38.

⁵ Acts 1905, 1927; Burns 29-1401; Baldwin 7377.

and each city and township thereof.⁶ The board employs necessary clerical assistants for the proper canvassing and tabulating of votes. Not more than one-half of the clerks employed can be from the same political party, and their compensation must not exceed \$1 per hour.⁷

The canvass of votes in primary⁸ and special⁹ elections, including votes cast for city¹⁰ and township officers,¹¹ is made in the same manner as in the general election.

The board has full power to send for persons and papers and compel witnesses to testify concerning matters bearing on the proper discharge of the board's duties. The sheriff executes all process and orders directed to him by the board.¹²

The ballots cast in all primary and general elections, together with all uncast ballots, are sealed in an envelope or bag by the inspector in the presence of the election judges and poll clerks, and are delivered by him to the clerk of the circuit court, who holds them subject to the demand of the judge of any circuit or superior court of the state, in connection with any litigation arising from the election in which they were cast. The clerk of the circuit court destroys the ballots after the expiration of 6 months, unless litigation has arisen.¹³

The certificates, together with a statement of all votes tabulated, canvass sheets, poll books, and tally papers, are delivered to the clerk of the circuit court and filed and preserved by him in his office, open to the inspection of any legal voter. These are destroyed after 6 months' preservation if no litigation arises in that time.¹⁴

⁶ Acts 1905; Burns 29-1404, 29-1405; Baldwin 7380, 7381. *Moore v. Kessler* (1877), 59 Ind. 152.

Duty to disregard ballots improperly marked by voters. *Croncy v. Traylor* (1928), 214 Ind. 542, 16 N. E. (2d) 845.

⁷ Acts 1920 (Spec. Sess.); Burns 29-913; Baldwin 7158.

⁸ Acts 1915, 1917; Burns 29-525; Baldwin 7211. Acts 1915; Burns 29-560; Baldwin 7245.

⁹ Acts 1889; Burns 29-1611; Baldwin 7169. Acts 1881 (Spec. Sess.); Burns 29-1704; Baldwin 7249.

¹⁰ Acts 1889, 1891; Burns 29-1612; Baldwin 7170. Acts 1933; Burns 29-1903, 29-1907; Baldwin 11635, 11639.

¹¹ Acts 1933; Burns 29-1903; Baldwin 7252.

¹² Acts 1905; Burns 29-1408; Baldwin 7384.

¹³ Acts 1915; Burns 29-1304; Baldwin 7456.

¹⁴ *Ibid.* Acts 1905; Burns 29-1404; Baldwin 7380.

372. [ELECTION RETURNS], 1912-. In [General Election Record], entry 373.

Record of votes cast in all elections, showing date of election, precinct and ward numbers, names of candidate, party affiliation and office, and number of votes cast for each candidate.

XIX. COUNTY BOARD OF ELECTION COMMISSIONERS

LEGAL STATUS

The board of election commissioners of Shelby County exists under the mandatory provisions of an act of 1889. The board consists of the clerk of the circuit court and two persons appointed by him (one from each of the two major political parties, nominated by their respective county chairmen).¹ The appointed members must be electors of the county at the time of their appointment, must have been inhabitants thereof during the preceding year, must reside within the county after their appointment,² must serve as members of the county board of canvassers, and must take an oath to support the state and federal constitutions and faithfully discharge their duties.³ Each member of the board is allowed \$125 for his services at any general or special election.⁴

For sufficient legal grounds any member of the county board of election commissioners may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by oath of any person; and such removal is subject to review by the supreme court.⁵ If any member is convicted of a felony the judgment of con-

¹ Acts 1889; Burns 29-1002; Baldwin 7109.

² Const. 1851, art. 6, secs. 4, 6.

³ *Ibid.*, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 12054. See the essays entitled "Board of Primary Election Commissioners." and "County Board of Canvassers."

For the eligibility, election, term, oath, and bond of the clerk of the circuit court, see the essay entitled "Clerk of the Circuit Court."

⁴ Acts 1935; Burns, 1939 suppl., 29-1014; Baldwin, 1935 suppl., 7109-1.

Mandamus to compel appropriation for compensation. *Blue v. State ex rel. Powell* (1936), 210 Ind. 486, 1 N. E. (2d) 122.

⁵ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13163. Acts 1875; Burns 49-837; Baldwin 13052.

viction must declare his office vacant.⁶ The clerk of the circuit court fills vacancies as to members appointed by him.⁷

With the organization of Shelby County in 1822⁸ the board of county commissioners laid off townships⁹ and appointed an inspector of elections in each.¹⁰ Blank forms of poll books and election returns were delivered by the sheriff to these inspectors before the election.¹¹ After 1831 the inspectors were elected by the voters of the township;¹² and after 1852 the clerk of the circuit court delivered to the sheriff a certificate showing which officers were to be elected. The sheriff posted a copy of this certificate at the usual places of holding elections, published it in some newspaper of the county, and delivered a copy to each township clerk¹³ or trustee.¹⁴ The board of county commissioners designated the precincts,¹⁵ and furnished supplies (including ballot boxes but not ballots).¹⁶ After 1881 the auditor furnished printed forms (but not ballots)¹⁷ and the board of county commissioners furnished the ballot boxes.¹⁸ Before 1839 voting was by ballot furnished by the voter.¹⁹ The president of the board of township trustees from 1853 to 1859²⁰—the township trustee since 1859—

⁶ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁷ Acts 1915, 1917; Burns 29-504; Baldwin 7190.

See the essay entitled "Clerk of the Circuit Court" for vacancy in the office of clerk.

⁸ Acts 1821-22, ch. 31, secs. 1, 2.

⁹ Acts 1817-18 (general), ch. 17, sec. 2.

¹⁰ Acts 1816-17, ch. 9, sec. 1. Acts 1817-18 (general), ch. 15, sec. 1; ch. 17, sec. 3. Rev. Laws 1824, ch. 35, sec. 1.

¹¹ Acts 1816-17 ch. 9, sec. 1. Acts 1817-18 (general), ch. 15, sec. 1. Rev. Laws 1824, ch. 35, sec. 1.

¹² Rev. Laws 1831, ch. 20, sec. 20.

¹³ 1 Rev. Stat. 1852, ch. 31, sec. 2.

¹⁴ Acts 1881 (Spec. Sess.); Burns 29-702; Baldwin 7082.

¹⁵ 1 Rev. Stat. 1852, ch. 31, sec. 3. Acts 1881 (Spec. Sess.), ch. 47, sec. 8.

¹⁶ 1 Rev. Stat. 1852, ch. 31, secs. 11, 12.

¹⁷ Acts 1881 (Spec. Sess.), ch. 47, sec. 13.

¹⁸ *Ibid.*, sec. 18.

¹⁹ Const. 1816, art. 6, sec. 2. Const. 1851, art. 2, sec. 13. Acts 1816-17, ch. 9, secs. 6-8, 11. Acts 1817-18 (general), ch. 15, sec. 8. Rev. Laws 1824, ch. 35, secs. 6-8, 11. Rev. Laws 1831, ch. 22, secs. 6-8, 11. Rev. Stat. 1838, ch. 32, secs. 6-8, 13. Rev. Stat. 1843, ch. 5, secs. 30-33, 40, 41, 44. 1 Rev. Stat. 1852, ch. 31, sec. 17. Acts 1881 (Spec. Sess.), ch. 47, sec. 23.

²⁰ 1 Rev. Stat. 1852, ch. 31, sec. 3.

served ex officio as inspector of elections²¹ in the precinct in which he resided.²² and the board of county commissioners appointed inspectors in all additional precincts.²³ The election board of the precinct was composed of the inspector, election judges, and poll clerks. The judges were appointed by the inspector, and the clerks were appointed by the inspector and judges.²⁴ After 1881 they were chosen from the two political parties casting the highest number of votes in the last preceding general election.²⁵

Indiana, in 1889, was one of the first states to adopt the Australian ballot—an official ballot printed at public expense by public officers and distributed at the polls by the election officers. The board of election commissioners was established to prepare, print, and distribute the ballots and otherwise administer the election laws of the county.²⁶

FUNCTIONS AND RECORDS

The constitution fixes the date of general elections as the 1st Tuesday after the 1st Monday in November,²⁷ and an act of the general assembly provides that they be conducted biennially in the even-numbered years.²⁸ At least 20 days before the election the clerk of the circuit court makes a certificate stating which officers are to be elected. Fifteen days before the election the sheriff delivers a copy of this certificate to each township trustee in the county, posts a copy at each usual place of holding such elections in the county, and causes the publication of a copy one time in a newspaper printed in the county.²⁹ The constitution further provides that all elections by the people must be by ballot.³⁰

²¹ Acts 1859; Burns 65-105; Baldwin 16065. *Holmes v. Board of County Comrs.* (1922), 78 Ind. App. 206, 135 N. E. 154.

²² Acts 1881 (Spec. Sess.), ch. 47, sec. 10.

²³ 1 Rev. Stat. 1852, ch. 31, sec. 4.

²⁴ Acts 1817-18 (general), ch. 15, sec. 2. 1 Rev. Stat. 1852, ch. 31, sec. 4.

²⁵ Acts 1881 (Spec. Sess.), ch. 47, secs. 11, 12.

²⁶ Acts 1889, ch. 87, secs. 18, 26.

²⁷ Const. 1851, art. 2, sec. 14 (as amended in 1881).

²⁸ Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081.

²⁹ Acts 1881 (Spec. Sess.); Burns 29-702; Baldwin 7082. *Parmater v. State ex rel. Drake* (1884), 102 Ind. 90, 3 N. E. 382.

³⁰ Const. 1851, art. 2, sec. 13.

Marking of ballots by voters. *Crane v. Traylor* (1938), 214 Ind. 542, 16 N. E. (2d) 845.

This provision does not prevent the use of voting machines³¹ (to be provided by the board of county commissioners).³²

The board of county commissioners establishes the precincts³³ and provides all polling places and ballot boxes³⁴ and the auditor furnishes blank poll books and other forms to the inspectors.³⁵

The county board of election commissioners supervises general elections.³⁶ It prepares and distributes all ballots used in the county (except for town elections).³⁷ Instructions as to names of persons to be voted for by all the electors of the state are furnished to the county board by the state board of election commissioners.³⁸ Candidates nominated by convention or primary election by parties casting one-half of 1 percent of the total vote of the state at the last preceding general election, and whose nominations have been duly certified to the clerk of the circuit court, are placed on the ballot under their respective party emblems. Candidates' names may be placed on the ballot by the petition of the required number (one-half of 1 percent of the total vote cast in the last preceding general election in the county) of qualified electors.³⁹ Political parties may be barred from the ballot if they advocate the overthrow, by force or violence, of the local, state, or national government. New parties must file, with the election commissioners in charge of the ballot or ballots on which they wish to appear, an affidavit declaring that they do not advocate such an overthrow.⁴⁰

³¹ Spickerman v. Goddard (1914), 182 Ind. 523, 107 N. E. 2.

³² Acts 1920 (Spec. Sess.); Burns 29-903; Baldwin 7148. Acts 1901, 1903; Burns 29-2404; Baldwin 7352.

³³ Acts 1889; Burns 29-801; Baldwin 7089. Acts 1920 (Spec. Sess.); Burns 29-901; Baldwin 7091.

³⁴ Acts 1920 (Spec. Sess.); Burns 29-909; Baldwin 7154. Acts 1897; Burns 29-1121; Baldwin 7135.

³⁵ Acts 1889; Burns 29-808; Baldwin 7097.

³⁶ Acts 1889; Burns 29-1116, 29-1117, 29-1119, 29-1120; Baldwin 7130, 7131, 7133, 7134. Acts 1903; Burns 29-2407; Baldwin 7355. Acts 1901; Burns 29-2410, 29-2426, 29-2428; Baldwin 7358, 7374, 7376.

³⁷ Acts 1889; Burns 29-1002, 29-1003; Baldwin 7109, 7110.

Ballot label for voting machines. Acts 1901; Burns 29-2410; Baldwin 7538.

³⁸ Acts 1889; Burns 29-1001; Baldwin 7108.

³⁹ Acts 1897, 1919, 1933; Burns 29-1106; Baldwin 7120. Acts 1920 (Spec. Sess.); Burns 29-1107; Baldwin 7121. Board of Election Comrs. v. State *ex rel.* Sides (1897), 148 Ind. 675, 48 N. E. 226; State *ex rel.* Garn v. Board of Election Comrs. (1906), 167 Ind. 276, 78 N. E. 1016.

⁴⁰ Acts 1935; Burns, 1939 suppl., 29-1015; Baldwin, 1937 suppl., 7120-1.

In each precinct there is a "precinct board of election" composed of one inspector and two election judges. The election is conducted by these boards. Each precinct board is assisted by two election sheriffs, two poll clerks, and (if necessary) two assistant poll clerks. No person is eligible to membership on a precinct board if he has a wager on the result of the election or is a candidate or a relative of a candidate at that election. The township trustee is *ex officio* inspector in his own precinct. The other inspectors are appointed by the board of election commissioners on nominations made by the county chairmen of the party casting the highest number of votes in the county for secretary of state in the preceding election. The election judges, sheriffs, poll clerks, and assistant poll clerks are of opposite political faith and are appointed by the board of election commissioners on nominations made by the county chairmen of the two major political parties.⁴¹ For their services at general elections the precinct election officials are compensated as follows: Each appointed inspector, \$8; each election judge, \$5; each poll clerk, \$5; each assistant poll clerk, \$5; and each election sheriff, \$3. Each of said officials is allowed \$3 per day for his services rendered in connection with primary elections. The township trustee receives no compensation for his services as election inspector.⁴² Each political party may appoint one challenger and one poll-book holder for each precinct, and must pay each of them compensation not exceeding \$3. These employees receive no compensation from public funds.⁴³

Since 1933 city⁴⁴ and township⁴⁵ elections have been held at the time of the general election. They are under the supervision of the county board of election commissioners,⁴⁶ as are all special elections.⁴⁷

⁴¹ Acts 1929, 1933; Burns 29-804; Baldwin 7093. Acts 1929; Burns 29-805 to 29-807; Baldwin 7094 to 7096.

⁴² Acts 1915; Burns 29-519; Baldwin 7205. Acts 1920 (Spec. Sess.), 1933; Burns 29-910; Baldwin 7155. *Finerty v. Bryan* (1938), 214 Ind. 570, 16 N. E. (2d) 882; *Holmes v. Board of County Comrs.* (1922), 78 Ind. App. 206, 135 N. E. 154.

⁴³ Acts 1929; Burns 29-806; Baldwin 7095.

⁴⁴ Acts 1899, 1891; Burns 29-1612; Baldwin 7170. Acts 1933; Burns 29-1801; Baldwin 11632.

⁴⁵ Acts 1933, 1935; Burns, 1939 suppl., 29-1901; Baldwin, 1935 suppl., 7250.

⁴⁶ Acts 1933; Burns 29-1803; Baldwin 11635.

⁴⁷ Acts 1889; Burns 29-1611; Baldwin 7169. Acts 1881; Burns 29-1704; Baldwin 7249.

Elections are open from 6 o'clock in the forenoon until 4 o'clock in the afternoon, after which time the precinct election board may close the election in any precinct at any time when all the electors of that precinct have voted, or when 15 minutes have passed without a vote having been cast in that precinct. Elections are open until 6 o'clock in the afternoon unless previously closed as aforesaid.⁴⁸ All pencils used in marking the ballots must be destroyed before the counting of ballots begins.⁴⁹

The board has full power to send for persons and papers and compel witnesses to testify concerning matters bearing on the proper discharge of the board's duties. The sheriff serves all process in county elections and obeys orders of the board.⁵⁰

Records of all general elections are placed in sealed bags and filed in the office of the clerk of the circuit court for preservation as provided by statute.⁵¹

373. [GENERAL ELECTION RECORD], 1912-. 1 vol. Sample ballots and record of ballots printed, distributed and returned, showing dates of election and certification of inspector, names of candidates, inspector, election commissioners and township, precinct number, and number of ballots printed, distributed and returned. Also contains: [Primary Election Record], 1916-, entry 369; [Election Returns], entry 372. Arr. chron. by dates of elections. No index. Hdw. 300 pp. 13 x 24 x 3. Clk. vt.

374. [ABSENT VOTERS, GENERAL ELECTIONS], 1923-. In [Absent Voters, Primary Elections], entry 370. Record of absent voters' ballots in general elections, showing same information as in entry 370.

375. [CANDIDATES' EXPENSES, GENERAL ELECTIONS], 1926-28, 1934, 1936, 1938-. In Elections [Papers], entry 371. Candidates' statements of expenses in general elections, showing same information as in entry 371ii.

⁴⁸ Acts 1915; Burns 29-520; Baldwin 7206. Acts 1889, 1899; Burns 29-1103; Baldwin 7103.

⁴⁹ Acts 1915; Burns 29-1305; Baldwin 7457.

⁵⁰ Acts 1905; Burns 29-1408; Baldwin 7384.

⁵¹ Rev. Laws 1824, ch. 35, sec. 14. Acts 1920 (Spec. Sess.); Burns 29-912; Baldwin 7157. Acts 1889; Burns 29-1009; Baldwin 7113. Acts 1915; Burns 29-1304; Baldwin 7456. Acts 1911, 1913, 1915; Burns 29-2508; Baldwin 7445. Acts 1911; Burns 29-2510; Baldwin 7447. State ex rel. Kollmeyer v. Baker (1932), 204 Ind. 18, 182 N. E. 537.

XX. COUNTY BOARD OF EDUCATION

LEGAL STATUS

The county board of education exists under the mandatory provisions of an act of 1873, as amended in 1877. The board consists of the county superintendent of schools, the township trustees, and the president of the school board of each city and town in the county. Before 1877 all the school trustees of each city and town in the county were also included as members of the board.¹

Semiannual meetings of the board are held at the office of the county superintendent of schools on the 1st day of May and September. A majority of the board members constitutes a quorum. The county superintendent presides at the meetings and casts his vote in the same manner as the other members. The board elects a secretary from among its members.²

FUNCTIONS AND RECORDS

The county board of education considers the general needs of the public schools within the county (including the care of school property and the purchase of school furniture, books, maps, charts, and other supplies), and makes advisory regulations concerning the same (except as to matters expressly covered by law or by regulation of the Indiana State Board of Education); directs the care and management of township libraries; and adopts textbooks for the schools in the county, except in cities. The state board of education has broad power to adopt text books which must be used in all the public schools in the state, but the county board may adopt supplementary textbooks on the same subjects. There are many curricular subjects on which textbooks are not adopted by the state board. No textbook can be changed by the county board of education within 6 years after its adoption, except by the unanimous vote of all the members of the board.³

The county board of education may purchase textbooks from publishers at the net wholesale or contract price and

¹ Acts 1873, 1877; Burns 28-801; Baldwin 5983. Acts 1905, 1915, 1919; Burns 28-1201; Baldwin 5962. *Opinions of the Attorney General of Indiana, 1933*, p. 551.

² Acts 1873, 1877; Burns 28-801; Baldwin 5983.

If the 1st day of the month is Sunday, the semiannual meeting is held the next day.
Ibid.

³ *Ibid.* Acts 1889, 1909, 1917; Burns 28-601; Baldwin 6675. Interview of February 2, 1940 with Floyd I. McMurray, state superintendent of public instruction.

sell them to the pupils at cost, plus the cost of handling the books, not to exceed 20 percent of the cost price, or rent them to the pupils at an annual rental not to exceed 25 percent of the retail price.⁴

Annually the board may appoint a school attendance officer for the county, known as the "county attendance officer." From 1897 to 1913 he was known as the "truant officer." The county superintendent of schools must annually nominate some person to be appointed county attendance officer, and must perform the duties of that office if the board makes no such appointment.⁵

The secretary of the board keeps a complete record of its meetings and proceedings.⁶

376. OFFICIAL RECORDS, Sept. 1, 1882-. 4 vols.

Minutes of meetings and proceedings of board of education, showing date and place of meeting, names of members present, nature of business discussed, and action taken. Arr. chron. by dates of meetings. Hdw. 200 pp. 14 x 9 x 2. Supt. off.

XXI. COUNTY SUPERINTENDENT OF SCHOOLS

LEGAL STATUS

The office of county superintendent of schools (known as "county superintendent" from 1873 to 1927)¹ exists under the mandatory provisions of an act of 1899, and amendments thereof, which increased the duties of the office as defined in a mandatory law of 1873. The county superintendent of schools is elected for a 4-year term by the township trustees and holds office until his successor is elected and qualified. The election is held in the auditor's office. In case of a tie vote the auditor casts the deciding vote.² To be eligible

⁴ Acts 1921; Burns 28-614; Baldwin 6692. Acts 1935; Burns, 1939 suppl., 28-638; Baldwin, 1935 suppl., 6692-1.

⁵ Acts 1897, ch. 165, sec. 2. Acts 1899, ch. 244, sec. 2. Acts 1901, ch. 203, sec. 2. Acts 1913, ch. 213, sec. 4. Acts 1921, 1932 (Spec. Sess.); Burns 28-501; Baldwin 6693.

⁶ Interview of February 2, 1940 with Floyd I. McMurray, state superintendent of public instruction.

¹ See footnotes 16 and 17 herein.

² Acts 1873, ch. 25, sec. 2-4, 6-8. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. State *ex rel.* Nebecker v. Sutton (1884), 99 Ind. 300; State *ex rel.* Laughlin v. Porter (1888), 113 Ind. 79, 14 N. E. 883; State *ex rel.* Williams v. Edwards (1888), 114 Ind. 581, 16 N. E. 627; State *ex rel.*

for this office a person must have had 5 years' successful experience as a teacher and must hold a first or second grade superintendent's license.³ The superintendent must post bond in the amount of \$5,000 (to be approved by and filed with the auditor) and take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.⁴

Statutes provide that the county superintendent of schools shall receive from the county a regular salary of \$1,840 per year, that his salary may be increased (without limitation as to amount) by the county council after request therefor by a majority of the township trustees,⁵ and that he is to be reimbursed for his traveling expenses (not to exceed \$50 per month nor \$300 in any school year).⁶

For sufficient legal grounds the county superintendent of schools may be removed from office by the circuit court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.⁷ If the superin-

Drummond v. Dillon (1890), 125 Ind. 65, 25 N. E. 136; State *ex rel.* Morris v. McFarland (1898), 149 Ind. 266, 49 N. E. 5.

A township trustee cannot participate in the election if he is a candidate for the office. Horning v. State *ex rel.* Gamble (1889), 116 Ind. 458, 19 N. E. 151. *Opinions of the Attorney General of Indiana, 1933*, p. 229.

³ Acts 1927, ch. 142, sec. 1. Acts 1935; Burns, 1939 suppl., 28-701; Baldwin, 1935 suppl., 5933-1. Acts 1923; Burns 28-4209; Baldwin 5920.

⁴ Const. 1851, art. 15, sec. 4. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068.

⁵ Acts 1933; Burns 49-1004; Baldwin 7534. Acts 1933, 1939; Burns, 1939 suppl., 49-1014; Baldwin, 1939 suppl., 7544. *Opinions of the Attorney General of Indiana, 1938*, p. 126.

The constitution provides that "the salary of any officer fixed by this constitution or by law" shall not "be increased during the term for which such officer was elected or appointed", and that the general assembly shall not pass local or special laws "in relation to fees or salaries: except that the laws may be so made as to grade the compensation of officers in proportion to the population and the necessary services required." Const. 1851, art. 4, sec. 22; art. 15, sec. 2 (as amended in 1926).

The county superintendent cannot receive compensation while holding over after expiration of his term and after his successor is elected and qualified. Edington v. Board of County Comrs. (1938), 105 Ind. App. 156, 13 N.E. (2d) 895.

⁶ Acts 1911, 1921; Burns 28-708; Baldwin 5936.

⁷ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1899; Burns 28-703; Baldwin 5932. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052. McComas v. Krug (1879), 81 Ind. 327; Hufford v. Conover (1894), 139 Ind. 151, 38 N. E. 328.

tendent of schools is convicted of a felony the judgment of conviction must declare his office vacant.⁸

Any vacancy in the office of county superintendent of schools is filled in the manner provided for the election for a full term. The person elected to fill a vacancy must post bond and take oath as was required of his predecessor, and holds office for the unexpired term and until his successor is elected and qualified.⁹

The county superintendent of schools, with the approval of the township trustees, may appoint an assistant. He is employed for such number of days as is necessary, and his compensation is fixed by the township trustees.¹⁰

An act of 1838 provided for the annual appointment, by the judge of the circuit court, of three county school examiners, to examine and license common school teachers.¹¹ A superseding act of 1843 (repealed in 1852) provided that the school examiners be appointed for indefinite terms.¹² An act of 1852 authorized the state superintendent of public instruction, in person or by deputy, to examine and license teachers.¹³ An act of 1853 authorized the board of commissioners to appoint, annually, one to three school examiners for the county, each to serve for a 1-year term. These county school examiners examined and licensed common school teachers and were required to keep records of the licenses issued and to make an annual report to the state superintendent of public instruction.¹⁴ Acts of 1861 and 1865, superseding the act of 1853, provided for the appointment of one county school examiner for a 3-year term.¹⁵ An act of 1873 changed the officer's title to "county superintendent", transferred to the township trustees the power of appointment, made the county superintendent more responsible to the state superintendent of public instruction, and gave the county superintendent advisory supervision of the schools of the county.¹⁶ An act of 1927 changed the title of this officer to "county superin-

⁸ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁹ Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931.

¹⁰ Acts 1911, 1921; Burns 28-709; Baldwin 5937.

¹¹ Rev. Stat. 1838, ch. 94 (14), secs. 3, 5, 6.

¹² Rev. Stat. 1843, ch. 15, secs. 133-135 (repealed by 1 Rev. Stat. 1852, ch. 92, sec. 1).

¹³ 1 Rev. Stat. 1852, ch. 98, sec. 85.

¹⁴ Acts 1853, ch. 106, secs. 6-8.

¹⁵ Acts 1861, ch. 41, secs. 32, 33. Acts 1865, ch. 1, secs. 33-43.

¹⁶ Acts 1873, ch. 25, secs. 2-4.

tendent of schools."¹⁷ An act of 1923 gave the state board of education exclusive jurisdiction to license school superintendents, supervisors, principals, teachers, attendance officers, and other regular school employees.¹⁸

FUNCTIONS AND RECORDS

The county superintendent of schools exercises general supervision of the schools in Shelby County which are not within incorporated cities and towns;¹⁹ visits the schools in session, at least once each year, for the purpose of increasing their usefulness and raising their standards as uniformly as practicable; carries out the orders of the state board of education and the state superintendent of public instruction;²⁰ nominates an attendance officer to be appointed by the county board of education;²¹ conducts county teachers' institutes;²² conducts and presides over township institutes;²³ reports to the school corporations as to teachers' preparation, experience, and licenses before they are employed;²⁴ provides for the examination of applicants for graduation from the common and high schools of the townships, districts, and towns, and furnishes the certificates of graduation; attends commencements of the common and high schools of the townships and towns;²⁵ examines and verifies certificates, presented by township trustees, for aid from the state common school relief fund;²⁶ and inspects the official dockets, records, and books of accounts of the clerks of courts, county auditor, board of commissioners, justices of the peace, prosecuting attorney, mayors of cities, and township and school trustees to ascertain if any of said officers have neglected to collect and pay to the school funds any revenues belonging to such funds, and institutes judicial proceedings when such neglect

¹⁷ Acts 1927, ch. 142, secs. 1, 2. Acts 1935, ch. 253, secs. 1, 2.

¹⁸ Acts 1923; Burns 28-4201 to 28-4217; Baldwin 5912 to 5928. Interview of November 14, 1939 with Floyd I. McMurray, state superintendent of public instruction.

¹⁹ Acts 1899; Burns 28-705; Baldwin 5940. Acts 1873; Burns 28-1401; Baldwin 5973.

²⁰ Acts 1921; Burns 28-305; Baldwin 5939. Acts 1899; Burns 28-704; Baldwin 5938.

²¹ Acts 1921, 1932 (Spec. Sess.); Burns 28-501; Baldwin 6693.

²² Acts 1907, 1929, 1933; Burns 28-4402; Baldwin 6725.

²³ Acts 1899; Burns 28-704; Baldwin 5938.

²⁴ Acts 1927, 1933; Burns 28-4309; Baldwin 6005.

²⁵ Acts 1899; Burns 28-706; Baldwin 5942.

²⁶ Acts 1933; Burns 28-903, 28-904; Baldwin 6433, 6434.

is found.²⁷ He is a member of the county board of education and presides at its meetings.²⁸ From 1919 to 1935 he annually awarded two scholarships to Indiana University.²⁹

The county superintendent of schools keeps a complete record of licenses held by all regular school teachers of the county (other than teachers of town and city schools), date of employment, their success grades, and the monthly or annual salary of each.³⁰ He makes an annual report to the state superintendent of public instruction concerning the enumeration of school children in the county, townships, cities and towns. He also reports statistics and other information concerning the condition of the schools, schoolhouses, and general progress of education.³¹

ACTIVITIES AND REPORTS

377. ADVISORY BOARD RECORD, [Minutes of County Institute], 1899-. 2 vols. Title varies: Record, 1899-1916, 1 vol.

Record of enrollment, attendance and minutes of meetings of county institute, showing date of meeting, names of teachers enrolled and present and speakers, minutes of meetings and proceedings, and action taken. Arr. chron. by dates of meeting. No index. Hdw. 120 pp. 14 x 9 x 1. 1 vol., 1899-1916, bsmt. vt., B-6; 1 vol. 1917-, supt. off.

378. STATE AID, ALL REPORTS, 1930-. 2 f. d.

Township trustees' and school superintendents' reports, including:

- i. Trustees' reports to county superintendent on enrollment, aggregate and average attendance 1934-, showing date of report, name or number of school, number of pupils enrolled, and total aggregate and average daily attendance.
- ii. Trustees' annual statistical report to county superintendent 1935-, showing date of report, total enrollment, number of pupils transferred to and from other school corporations, number of days

²⁷ Acts 1873; Burns 28-712; Baldwin 5950. Moore v. State *ex rel.* Denny, 55 Ind. 360.

²⁸ Acts 1873, 1877; Burns 28-801; Baldwin 5983. See the essay entitled "County Board of Education."

²⁹ Acts 1919, ch. 185, sec. 1. Acts 1935, ch. 45, sec. 1.

³⁰ Acts 1923; Burns 28-4217; Baldwin 5928.

³¹ Acts 1865, 1873, 1895; Burns 28-714; Baldwin 5948.

school in operation, aggregate and average daily attendance, number of pupils completing elementary and senior high school grades, number of school-houses and classrooms in use, number of teachers, principals, supervisors, janitors and engineers in service, number of new schoolhouses erected, schools abandoned, and buildings remodeled, value of schools built with and without federal aid, assessed valuation of property for tax levy, rate of school tax, and nature of transportation furnished.

- iii. Trustees' annual reports to county superintendent of schools on indebtedness, receipts and expenditures 1935-, showing date of report, nature and amount of indebtedness, amounts of revenue and non-revenue receipts classified by funds, amounts of disbursements for instruction, operation, maintenance, fixed charges, co-ordinate and auxiliary activities, transfer tuition and capital outlay, grand total of receipts and expenditures, and financial statement of assets and liabilities.
- iv. Copies of county superintendent's annual reports to state superintendent of public instruction of aggregate daily attendance 1934-, showing date of report, name of township or school corporation, number of pupils enrolled, and aggregate and average daily attendance.
- v. Copies of county superintendent's annual statistical report to state superintendent of public instruction 1932-, showing same information as in paragraph iii.
- vi. Trustees' or school board treasurers' annual reports to county superintendent on enrollment and aggregate attendance 1933-, showing same information as in paragraph i.
- vii. Trustees' annual report to county superintendent on administrative, supervisory and teaching staff 1934-, showing date of report, names of employe and school, title of position, number, kind and grade of license or permit, and amount of salary.
- viii. Copies of state school inspector's reports to state superintendent of public instruction 1931-, showing date of inspection, names of inspector, township or school corporation and school, grades of

is found.²⁷ He is a member of the county board of education and presides at its meetings.²⁸ From 1919 to 1935 he annually awarded two scholarships to Indiana University.²⁹

The county superintendent of schools keeps a complete record of licenses held by all regular school teachers of the county (other than teachers of town and city schools), date of employment, their success grades, and the monthly or annual salary of each.³⁰ He makes an annual report to the state superintendent of public instruction concerning the enumeration of school children in the county, townships, cities and towns. He also reports statistics and other information concerning the condition of the schools, schoolhouses, and general progress of education.³¹

ACTIVITIES AND REPORTS

377. ADVISORY BOARD RECORD, [Minutes of County Institute], 1899—. 2 vols. Title varies: Record, 1899-1916, 1 vol.

Record of enrollment, attendance and minutes of meetings of county institute, showing date of meeting, names of teachers enrolled and present and speakers, minutes of meetings and proceedings, and action taken. Arr. chron. by dates of meeting. No index. Hdw. 120 pp. 14 x 9 x 1. 1 vol., 1899-1916, bsmt. vt., B-6; 1 vol. 1917—, supt. off.

378. STATE AID, ALL REPORTS, 1930—. 2 f. d.

Township trustees' and school superintendents' reports, including:

- i. Trustees' reports to county superintendent on enrollment, aggregate and average attendance 1934—, showing date of report, name or number of school, number of pupils enrolled, and total aggregate and average daily attendance.
- ii. Trustees' annual statistical report to county superintendent 1935—, showing date of report, total enrollment, number of pupils transferred to and from other school corporations, number of days

²⁷ Acts 1873; Burns 28-712; Baldwin 5950. Moore v. State *ex rel.* Denny, 55 Ind. 360.

²⁸ Acts 1873, 1877; Burns 28-801; Baldwin 5983. See the essay entitled "County Board of Education."

²⁹ Acts 1919, ch. 135, sec. 1. Acts 1935, ch. 45, sec. 1.

³⁰ Acts 1923; Burns 28-4217; Baldwin 5928.

³¹ Acts 1865, 1873, 1895; Burns 28-714; Baldwin 5948.

school in operation, aggregate and average daily attendance, number of pupils completing elementary and senior high school grades, number of schoolhouses and classrooms in use, number of teachers, principals, supervisors, janitors and engineers in service, number of new schoolhouses erected, schools abandoned, and buildings remodeled, value of schools built with and without federal aid, assessed valuation of property for tax levy, rate of school tax, and nature of transportation furnished.

- iii. Trustees' annual reports to county superintendent of schools on indebtedness, receipts and expenditures 1935-, showing date of report, nature and amount of indebtedness, amounts of revenue and non-revenue receipts classified by funds, amounts of disbursements for instruction, operation, maintenance, fixed charges, co-ordinate and auxiliary activities, transfer tuition and capital outlay, grand total of receipts and expenditures, and financial statement of assets and liabilities.
- iv. Copies of county superintendent's annual reports to state superintendent of public instruction of aggregate daily attendance 1934-, showing date of report, name of township or school corporation, number of pupils enrolled, and aggregate and average daily attendance.
- v. Copies of county superintendent's annual statistical report to state superintendent of public instruction 1932-, showing same information as in paragraph iii.
- vi. Trustees' or school board treasurers' annual reports to county superintendent on enrollment and aggregate attendance 1933-, showing same information as in paragraph i.
- vii. Trustees' annual report to county superintendent on administrative, supervisory and teaching staff 1934-, showing date of report, names of employee and school, title of position, number, kind and grade of license or permit, and amount of salary.
- viii. Copies of state school inspector's reports to state superintendent of public instruction 1931-, showing date of inspection, names of inspector, township or school corporation and school, grades of

- teaching staff, supervisory and administrative organization, kind of furnishings and equipment, record system, number of promotions and graduations, program of studies, and recommendations.
- ix. Township trustees' and school corporation superintendents' reports to county superintendent on teaching activities, showing same information as in paragraph viii.
 - x. Township trustees' reports to state board of education for reimbursement on state school relief 1935-, showing date of report, school term, name of teacher, name of school or number of district, number of weeks of professional training, number and kind of license, number of years teaching experience, and amount of salary.
 - xi. Copies of township trustees' and school board treasurers' reports to state department of education for state school relief funds 1935-, showing date of report, name of township or school corporation, auditor's certification of distribution to valuation and levies, receipts and expenditures chargeable in claims for state school relief funds, financial statement of receipts and disbursements, statement of transfer of pupils, and average daily attendance.
 - xii. Trustees' annual reports to county superintendent on transfers and attendance 1936-, showing date of report, enrollment of pupils, number of transfers to and from other school corporations, number of days school in operation, aggregate attendance for year, and average daily attendance.
 - xiii. Trustees' reports to county superintendent of pupils transferred from other school corporations 1936-, showing date of report, names of pupil transferred and parent or guardian, dates of birth and enrollment, amount due, itemized statement of per capita cost, and average daily attendance.

Arr. by types of reports, thereunder chron. by dates of reports.
No index. Hdw. 11 x 13 x 25. Supt. off.

379. TEACHERS' MONTHLY REPORT, 1932-. 2 f. b.

Carbon copies of teachers' monthly attendance report, showing date of report, names of teacher, school and township, name, age, sex and grade of pupils, number of days present and absent, and reason for absence. Arr. chron. by dates of reports. No index. Hdw. 10 x 4 x 12. Supt. off.

330. [AGGREGATE ATTENDANCE], 1933-. 7 vols. (dated). Record of teachers' reports on aggregate attendance, showing date of report, school term, names of teacher and township or school corporation, name, date of birth and grade of pupil, number of transfers, number of days present and absent, and aggregate and daily average attendance. Arr. alph. by townships and school corporations. No index. Hdw. and typed. 90 pp. 20 x 9 x 1. Supt. stor. rm.

331. TEACHERS AND COUNTY SCHOOL OFFICIALS, 1934-. 1 f. d. Reports to superintendent of schools and applications of teachers, including:

- i. Trustees' and school corporation officials' reports to county superintendent on assessments for state teachers retirement fund 1938-, showing date of report, name of teacher, date of service, membership number, and amount of assessment.
- ii. Copies of county attendance officer's reports to state attendance board 1934-, showing date of report, name and address of officer, number of visits to schools, homes and other places, number of pupils investigated, number of cases referred to other agencies, and citizenship and character information on pupils.
- iii. Applications for teaching positions 1936-, showing date of application, name of teacher, and training, experience and qualifications of teacher. Arr. alph. by names of teachers.

Arr. by types of reports, thereunder chron. by dates of reports. No index. Hdw. 11 x 13 x 25. Supt. off.

332. [REPORTS OF TEXT BOOKS SOLD], 1899-1916. 1 vol. Copies of county superintendent's reports to publishing houses of text books sold, showing dates of report, receipt of books, sale and return, name and address of publisher, names of townships, itemized statement of books received, sold and returned, and amount of sales. Arr. by names of publishers, thereunder chron. by dates of reports. No index. Hdw. 300 pp. 13 x 13 x 2. Bsmt. vt., B-6.

333. THE SUPERINTENDENT'S COMPLETE RECORD OF REPORTS, 1881-1903. 1 vol.

Record of reports, including:

- i. Trustees' annual financial and statistical reports to county superintendent 1881-96, showing same information as in entry 378iii.

- ii. Reports of township institute meetings 1900-1903, showing dates of meeting and report, names of members present, nature of business, and action taken. Arr. chron. by dates of reports. No index. Hdw. 300 pp. 16 x 11 x 1½. Bsmt. vt., B-6.

TEACHERS

384. TEACHERS' QUALIFICATIONS, 1921-. 1 f. b. Card record of teachers' license, training and experience, showing dates of certificate and expiration, name and address of teacher, number and kind of certificate, date of training, number of weeks, name of institution, degree, amount of experience, name of school or corporation, grades or subjects taught, and annual contribution to teacher retirement fund. Arr. alph. by names of teachers. No index. Hdw. and typed. 5 x 8 x 16. Supt. off.

385. SUCCESS RECORD, 1903-35. 40 vols. Stubs and copies of teachers' success schedules, showing name and address of teacher, name of township or school corporation, school year, months taught, kind of work, personality, preparation and training, teaching technique, public achievement, management, co-operation, and professional attitude and reading. Arr. by townships or school corporations, thereunder by names of teachers. No index. Hdw. 100 pp. 9 x 9 x 1. Supt. off.

386. EXAMINATION RECORD, 1865-1923. 6 vols. Title varies: Examiner, 1865-Mar. 1882. 1 vol. Discontinued. Record of examination of applicants for licenses to teach in grade and high schools, showing dates of examination and issuance of license, name and address of applicant, subjects included and grades made, and type of license granted. Arr. chron. by dates of examination. No index. Hdw. 150 pp. 14 x 9 x 1. Bsmt. vt., B-6.

PUPILS

387. RECORD OF GRADUATES, 1884-. 9 vols. (dated). Record of graduates from schools in county, including:
- i. List of common school graduates, showing date of graduation, names of pupils, trustee and township, and grade average.

- ii. List of high school graduates, 1884-1912, 1930-, showing date of graduation, name, age, address and average grade attained, and names of trustee and township.

Arr. chron. by date of graduation, thereunder by townships. No index. Hdw. 120 pp. 14 x 9 x 1. Supt. off.

- 388. BIRTH CERTIFICATES, CARDS FOR WORK PERMITS, Sept. 9, 1924-. 1 f. d.

Requests for birth record of students and transcripts of birth certificates, showing date of request, names of student and parents, and date of students birth. Arr. alph. by names of students. No index. Hdw. 11 x 13 x 25. Supt. off.

- 389. EIGHTH GRADE GRADUATES, 1930-. 1 f. d., 1 f. b. Card record of eighth grade graduates, showing names of student and parent or guardian, date of students birth, entry in school and graduation, names of school attended and teacher, and health, physical, citizenship and character record of student. Arr. alph. by names of students. No index. Hdw. F. d. 11 x 13 x 25; f. b. 5 x 8 x 16. 1 f. d. 1930-32, supt. stor. rm.; 1 f. b. 1933-, supt. off.

- 390. HIGH SCHOOL GRADUATES, 1930-. 1 f. d.

Card record of high school graduates, showing names and addresses of student and parent or guardian, occupation of parent or guardian, economic status of family, home conditions, number of children in family, relationship of guardian, names of schools attended, period of attendance, health, physical, elementary, high school attendance and scholarship, citizenship and character, intelligence and achievement test, employment record, and summary of credits. Arr. alph. by names of graduates. No index. Hdw. 5 x 8 x 16. Supt. off.

- 391. MISCELLANEOUS, [Under-Graduates], 1931-. 1 f. b. Card record of under-graduates, showing same information as in entry 390. Arr. alph. by names of students. No index. Hdw. 11 x 13 x 25. Supt. off.

- 392. [EXAMINATIONS], Dec. 22, 1932-. 8 vols.

Copies of teachers' semi-annual reports to county superintendent on examination of grades, showing date of report, name of school, township or school corporation, teacher and pupil, subjects taken, grades by subjects, and memoranda of students progress. Arr. alph. by names of twp., school and school corporations, thereunder alph. by names of pupils. No index. Hdw. 150 pp. 17 x 12 x 2. Supt. stor. rm.

XXII. COUNTY HEALTH OFFICER

LEGAL STATUS

The office of county health officer exists under the mandatory provisions of an act of 1935 which became effective on January 1, 1938. The county health officer is appointed for a 4-year term by the board of commissioners, with the approval of the Indiana State Board of Health. At the time of making an appointment the board of commissioners determines whether he shall be a "full-time" officer or a "part-time" officer. He is now a part-time officer. He must be a regularly licensed physician, suitably trained in sanitary science and hygiene,¹ and must take an oath to support the state and federal constitutions and faithfully discharge the duties of his office.²

The county health officer receives an annual salary in an amount equal to 3 cents for each county resident, exclusive of the residents of any city having a health officer, provided that his salary must be between \$200 and \$1,800 per year. This rate of compensation applies to part-time officers and full-time officers. A part-time county health officer may also serve as part-time city health officer, but his compensation from the two offices cannot exceed \$1,800 per year.³ With the approval of the board of commissioners and the state board of health he is permitted to receive gifts and other financial assistance from private individuals, private corporations, the state, and the United States.⁴

The health officer may be removed from office by the board of commissioners or the state board of health. Any vacancy in office is filled through appointment by the board of commissioners, with the approval of the state board of health.⁵

Since the early days of the county the board of commissioners has had statutory authority to appoint inspectors of

¹ Acts 1935 (effective January 1, 1938); Burns, 1939 suppl., 35-118, 35-122, 35-124; Baldwin, 1935 suppl., 8404-1, 8404-5, 8404-7. Interview of March 13, 1940 with Dr. Verne K. Harvey, director of the state board of health.

² Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

³ Acts 1935; Burns, 1939 suppl., 35-118, 35-122, 35-124; Baldwin, 1935 suppl., 8404-1, 8404-5, 8404-7. *Opinions of the Attorney General of Indiana, 1938*, p. 17.

⁴ Acts 1935; Burns, 1939 suppl., 35-127; Baldwin, 1935 suppl., 8404-10.

⁵ Acts 1935; Burns, 1939 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

flour, beef, pork, salt, and hay. Tobacco inspectors could be appointed by the board before 1857 and by the judge of the circuit court since 1857.⁶

From 1881 to 1909 the board of commissioners constituted, ex officio, the county board of health, and annually appointed a secretary who was a physician and served as county health officer. The law provided that the secretary must render medical and surgical services to inmates of the county jail and any other medical services required of him by the board of commissioners.⁷ An act of 1891 enlarged the duties of the board.⁸ In 1909 the county board of health was abolished and the office of county health commissioner (appointed for a 4-year term by the board of commissioners) was established. This office continued until January 1, 1938, when the act of 1935 (the present law) became effective.⁹

FUNCTIONS AND RECORDS

The county health officer protects and supervises the general health and sanitation of the county, except in incorporated cities having a full-time or part-time health officers;¹⁰ enforces the health laws of the state and the rules and regulations of the state board of health;¹¹ oversees inspection of food and drugs; endeavors to promote sanitary conditions for the sale of food;¹² condemns buildings unfit for human habitation;¹³ sends samples of water to the state laboratory for inspection, in order to detect pollution;¹⁴ makes inspections of public buildings and institutions; investigates the presence, source, and cause of disease; establishes quarantines; closes schools and churches and forbids public gatherings, in order to prevent the spread of epidemics; protects the public health in all reasonable and necessary

⁶ Acts 1816-17, ch. 11, sec. 4. Acts 1818-19, ch. 15, sec. 1. Rev. Laws 1824, ch. 109, sec. 4. Rev. Laws 1831, ch. 50, secs. 1-6. Rev. Stat. 1838, ch. 53. Rev. Stat. 1843, ch. 27. 1 Rev. Stat. 1852, ch. 55, sec. 1. 1 Rev. Stat. 1852; Burns 35-1901; Baldwin 9463.

⁷ Acts 1881, ch. 19, sec. 8.

⁸ Acts 1891, ch. 15, sec. 8.

⁹ *Ibid.*, secs. 8, 10. Acts 1909, ch. 144, secs. 4, 6. Acts 1935; Burns, 1939 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

¹⁰ Acts 1935; Burns, 1939 suppl., 35-122, 35-124; Baldwin, 1935 suppl., 8404-5, 8404-7.

¹¹ Acts 1891, 1909; Burns 35-111; Baldwin 8405.

¹² Acts 1909; Burns 35-1009; Baldwin 8512. Acts 1907; Burns 35-1207; Baldwin 8476.

¹³ Acts 1917; Burns 35-1801; Baldwin 8563.

¹⁴ Acts 1909; Burns 35-201; Baldwin 8410. Acts 1907, 1913; Burns 35-115; Baldwin 8398.

ways;¹⁵ refers cases of indigent persons bitten by a dog, known or supposed to have hydrophobia, to the state board of health for the pasteur treatment;¹⁶ orders hydrophobia-infected animals quarantined or killed;¹⁷ and, in case there is danger of the outbreak or spread of hydrophobia, he orders the muzzling or quarantining of all dogs and other animals within his jurisdiction, with the consent and aid of the sheriff.¹⁸

Weekly reports, on printed forms provided by the United States Public Health Service, summarizing all communicable diseases or stating the absence thereof, are made by the county health officer to the state board of health.¹⁹

The county health officer collects, records, and reports the vital statistics of the county; issues burial permits;²⁰ and keeps full and permanent records of the public health work and of his reports. He makes monthly reports of his work to the state board of health.²¹ He prepares and delivers to the clerk of the circuit court, on his request therefor, a list of the names and last known addresses of deceased voters.²²

VITAL STATISTICS

393. RECORD OF BIRTHS, 1882-. 16 vols.

Record of births reported to health officer, showing dates of birth and report, name, sex, color and race of child, place of birth, name of attending physician, names, ages, occupations and nationality of parents, and nature of birth. Arr. chron. by dates of reports. Indexed alph. by names of parents. Hdw. 200 pp. 18 x 12 x 1½. Hlth. off., Waldron, Ind.

394. RECORD OF MARRIAGES, 1882-. 18 vols.

Record of all marriage returns, showing dates of marriage and return, place of marriage, names, ages, color and occupations of bride and groom, place of birth, and names of parents, witnesses and officiating officer. Arr. chron. by dates

¹⁵ Acts 1891, 1909; Burns 35-111; Baldwin 8405.

¹⁶ Acts 1911; Burns 35-706; Baldwin 3859.

¹⁷ Acts 1911; Burns 35-707; Baldwin 3860.

¹⁸ Acts 1911; Burns 35-708; Baldwin 3861.

¹⁹ Acts 1907, 1913; Burns 35-115, 35-116; Baldwin 8328, 8399. Rule 6 of state board of health.

²⁰ Acts 1891, 1909; Burns 35-111; Baldwin 8405. Acts 1907, 1913; Burns 35-115; Baldwin 8358.

²¹ Acts 1891, 1909; Burns 35-111; Baldwin 8405.

²² Acts 1933; Burns 29-321; Baldwin 7319.

of returns. Indexed alph. by names of brides and grooms. Hdw. 200 pp. 18 x 12 x 1½. Hlth. offr. off., Waldron, Ind.

For other marriage records, see entries 34-38.

395. RECORD OF INFECTIOUS AND CONTAGIOUS DISEASES, 1897-.
15 vols.

Record of contagious diseases reported to health officer, showing dates of report and quarantine, name, age, race, sex, address and family history of patient, nature of disease, and name of attending physician. Arr. chron. by dates of reports. Indexed alph. by names of patients. Hdw. 200 pp. 18 x 12 x 1½. Hlth. offr. off., Waldron, Ind.

396. RECORD OF DEATHS, 1882-. 14 vols.

Record of deaths reported to health officer, showing dates of death and report, name, age, sex, race and nationality of deceased, nature and duration of illness, and place of death. Arr. chron. by dates of reports. Indexed alph. by names of deceased. Hdw. 200 pp. 18 x 12 x 1½. Hlth. offr. off., Waldron, Ind.

XXIII. COUNTY DEPARTMENT OF PUBLIC WELFARE

LEGAL STATUS

The county department of public welfare exists under the mandatory provisions of an act of 1936. The department's affairs are administered by the county board of public welfare and a county director of public welfare.¹ The department is a legal entity and its official name is "The County Department of Public Welfare of Shelby County." It may sue and be sued in that name.²

Before the present system of welfare was organized, the county administered aid to the poor and needy through discretionary powers granted to the county. County asylums were established at an early date to care for those who were without homes and means to care for themselves.³ An act of 1857 authorized the board of commissioners to give aid to needy blind and infirm poor.⁴ In 1901 the board of children's

¹ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1117 to 52-1119, 52-1126; Baldwin, 1937 suppl., 14078-18 to 14078-20, 14078-27.

² Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1122 (a); Baldwin, 1937 suppl., 14078-23.

³ Const. 1816, art. 9, sec. 4. Const. 1851, art. 9, sec. 3. Rev. Stat. 1843, ch. 19, sec. 34.

1 Rev. Stat. 1852; Burns 52-201; Baldwin 13360. Acts 1901; Burns 52-104; Baldwin 13361.

⁴ Acts 1857; Burns 26-1202; Baldwin 5295.

guardians was established in the county to provide adequate care and supervision of neglected and dependent children.⁵ The board of county charities and corrections (organized in 1899) inspected and advised changes in the county institutions.⁶ A system of old-age pensions was provided for by an act of 1933.⁷ These previous methods of welfare assistance were merged into the present welfare law.⁸

Since the early days of the county, township poor relief has been administered by township overseers of the poor (now the township trustee), from funds raised by township tax levies. Such poor relief is separate and distinct from the public welfare system discussed herein, but the two systems are often confused by the public.⁹

The county board of public welfare consists of five members appointed for 4-year terms by the judge of the circuit court. Each member serves until his successor is appointed and qualified. At least two members must be women and not more than three members may be adherents of the same political party. The members must have resided in the county for 2 years before appointment, must have a definite and recognized interest in public welfare, and must take an oath to support the state and federal constitutions and faithfully discharge the duties of this office.¹⁰

The judge of the circuit court may, at any time, after due notice in writing, remove any member of the county board of public welfare for misconduct, incapacity, or neglect of duty. A vacancy in the membership of this board is filled through appointment by the judge of the circuit court; and the appointee holds office for the unexpired term and until his successor is appointed and qualified.¹¹

⁵ Acts 1901, 1923, 1927; Burns 22-2801, 22-2802; Baldwin 5684, 5685.

⁶ Acts 1899; Burns 22-2901 to 22-2903; Baldwin 4116 to 4118.

⁷ Acts 1933, ch. 36, secs. 1-27 (all repealed by Acts 1936 (Spec. Sess.), ch. 3, sec. 129).

⁸ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1121, 52-1410; Baldwin, 1937 suppl., 14078-22, 14078-122.

⁹ Acts 1816-17, ch. 26, sec. 1. Acts 1817-18 (general), ch. 14, secs. 1-24. Rev. Laws 1824, ch. 15, sec. 7; ch. 72, secs. 1-25. Rev. Laws 1831, ch. 69, secs. 1-27. Rev. Stat. 1838, ch. 20, sec. 20. Rev. Stat. 1843, ch. 5, sec. 69. 1 Rev. Stat. 1852, ch. 81, secs. 1-38. Acts 1901, ch. 147, secs. 1-39. Acts 1935; Burns, 1939 suppl., 52-145 to 52-182a; Baldwin, 1935 suppl., 13320-2 to 13359-12. Commissioners' Record, A: 297, 306; C: 55, 58, 87.

¹⁰ Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1118; Baldwin, 1937 suppl., 14078-19.

¹¹ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1118; Baldwin, 1937 suppl., 14078-19.

Regular meetings of the county board of public welfare are held once a month. The August meeting is known as the annual meeting. Other meetings may be held pursuant to call. Three members of the board constitute a quorum for transacting business.¹²

The members of the county board of public welfare serve without compensation, but each member is entitled to receive 5 cents per mile for each mile actually and necessarily traveled in attending board meetings and state conventions of county board members.¹³

Executive and administrative work of the county department of public welfare is carried on by the county director of public welfare, who serves as secretary of the board. He is appointed by the county board of public welfare to serve for an indefinite term. The appointment is made solely on the basis of merit from eligible lists established by the Indiana State Department of Public Welfare. He must have resided in the county for 2 years before appointment, unless no suitable person with such residence is available. The director must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office. He must post bond in an amount (not exceeding \$5,000) fixed by the state department of public welfare, to be approved by the judge of the circuit court and filed in the office of the clerk of the circuit court.¹⁴

The county director of public welfare may be removed from office at any time by the county board of public welfare. If the state department, after notice and hearing, determines that the county director's duties, functions, and activities are not performed in compliance with the welfare laws and regulations, the state department may order the county board to remove him from office. Vacancies in the office of county director are filled in the manner in which original appointments are made, except as otherwise stated hereinafter. If a successor is not appointed within 30 days after removal is ordered by the state department, or if any vacancy is not filled by the county board within 30 days after the vacancy occurs, the state department may appoint a successor to serve at the pleasure of the state department.¹⁵

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1119; Baldwin, 1937 suppl., 14078-20.

¹⁵ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1119; Baldwin, 1937 suppl., 14078-20.

The county director of public welfare receives a salary in an amount fixed by the county board of public welfare, within the salary ranges established by the state department. He also receives 5 cents per mile for each mile necessarily traveled in the discharge of his duties.¹⁶

The county director, with the approval of the county board, appoints the assistants in the department, from eligible lists compiled by the state department of public welfare, and determines the salaries of these assistants. Each assistant must have been a resident of the county for 2 years before his appointment, unless a suitable person with such residence is not available.¹⁷

FUNCTIONS AND RECORDS

Subject to the rules and regulations prescribed by the state department of public welfare, the county department is charged by statute with the administration of assistance to dependent children in their own homes, old-age assistance, the care and treatment of dependent, neglected, and handicapped children and children in danger of becoming delinquent, and services and assistance to the blind and to persons otherwise handicapped. The state and county departments also administer provisions and benefits of the federal "Social Security Act" of August 14, 1935. The county director performs the duties prescribed by law for the probation officer of the circuit court (concerning any welfare matters before the court), when so directed by the circuit court; but he cannot hold the office of probation officer. The county department must report to the state department "at such times and in such manner as the state department may, from time to time, direct." Necessary quarters for the county department must be provided by the board of commissioners.¹⁸

Expenditures for welfare assistance and administrative expenses (including rent of office quarters) of the county department are paid from the county welfare fund raised by a separate tax levy,¹⁹ to which are added such repayments

¹⁶ *Ibid.* Interview of August 14, 1939 with Thurman A. Gottschalk, administrator of the state department of public welfare.

¹⁷ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1123; Baldwin, 1937 suppl., 14078-24.

¹⁸ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1115, 52-1120; Baldwin, 1937 suppl., 14078-14, 14078-21. *Opinions of the Attorney General of Indiana, 1936*, p. 155.

¹⁹ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1120, 52-1301; Baldwin, 1937 suppl., 14078-21, 14078-98.

as may be made under legal liability by recipients, their parents, children, or other persons liable for their support.²⁰ Old-age assistance certificates, filed with the recorder, establish liens against estates of recipients to insure reimbursement.²¹ The county receives funds from the state, to the extent of 50 percent of the amount expended by the county department, and a part of any federal funds granted to the state, to be paid into the county welfare fund.²² All claims for administrative expenses are subject to allowance by the board of commissioners. Claims for assistance are determined by the department and approved by the director, and need not be allowed by the board of commissioners.²³ The county board of public welfare may accept gifts of personal property or income from real estate, for the homes or support of dependent children.²⁴

The auditor keeps the records relating to the county welfare fund and its financial transactions.²⁵ The county department keeps such records and accounts relating to assistance as the state department of public welfare prescribes.²⁶ All records are confidential, except the following: (a) Application for assistance, (b) awards, and (c) modification and revocation of awards.²⁷

PROCEEDINGS

397. MINUTE BOOK, 1936-. 1 vol.

Minutes of meetings of county board of public welfare, showing date, place and time of meeting, names of members present, subjects discussed, and action taken. Arr. chron. by dates of meetings. No index. Hdw. 250 pp. 14 x 12 x 2. Rm. 304, pub. welf. off.

398. [RECOMMENDATION REGISTER], 1936-. 1 vol.

Register of recommendations of county director and actions

²⁰ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1263; Baldwin, 1937 suppl., 14078-94.

²¹ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1207; Baldwin, 1937 suppl., 14078-38.

²² Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1219, 52-1249, 52-1254; Baldwin, 1937 suppl., 14078-50, 14078-80, 14078-85. Acts 1936 (Spec. Sess.); 1937; Burns, 1939 suppl., 52-1124a; Baldwin, 1937 suppl., 14078-24a.

²³ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1124; Baldwin, 1937 suppl., 14078-25.

²⁴ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1122(b); Baldwin, 1937 suppl., 14078-23.

²⁵ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1401; Baldwin, 1937 suppl., 14078-113.

²⁶ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1260; Baldwin, 1937 suppl., 14078-91.

²⁷ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1262; Baldwin, 1937 suppl., 14078-93.

of county board of public welfare as to rejections, grants, modifications and revocations of awards to the aged, the blind and to dependent children, showing dates of recommendation and action, names of applicant or recipient, application and recommendation numbers, recommendation of director, action of board, date of notice, and certificate number. Arr. num. by recommendation nos. No index. - Typed. 200 pp. 9 x 22 x 2. Rm. 304, pub. welf. off.

OLD-AGE ASSISTANCE

(See also entries 98, 99, 305)

399. INDEX CARDS, A. D. C., PUBLIC WARDS, INDEX CARDS, BLIND, C. C. C., N. Y. A., CRIPPLED CHILDREN, 1936-. 1 f.d.

Index card file, including:

- i. Index to Register of Applications, entry 401ii, iii and iv, showing dates of award or rejection and withdrawal, names of applicant and child, application number, and reason for rejection or withdrawal. Arr. alph. by names of applicants.
- ii. Index to Register of Applications, entry 401vii, and Cases, entry 411iii, showing date of application, name of applicant, names, ages and number of children in foster home, reason if application was rejected, and application number. Arr. alph. by names of applicants.
- iii. Index to Register of Applications, entry 401vi, showing date of application, application number, award or rejection and withdrawal, name of applicant, and reason for rejection or withdrawal. Arr. alph. by names of children.
- iv. Index to Register of Applications, entry 401v, 1938-, showing dates of award or rejection and withdrawal, names of applicant and child, application number, and reason for rejection. Arr. alph. by names of children.
- v. Index to Cases, entry 411vi and vii, July 1939-, showing date of application, application number, name, race and birthdate of applicant, and names of parents or person in loco parentis. Arr. alph. by names of applicants.
- vi. Index to Cases, entry 411viii, July 1939-, showing same information as in paragraph v. Arr. alph. by names of applicants.

Typed. 5 x 14 x 26½. Rm. 303, pub. welf. off.

400. INDEX CARDS AGED APPLICANTS, INDEX CARDS MISCELLANEOUS, 1936-. 1 f. d.

Index card file, including:

- i. Index to Active Cases Aged Assistance, entry 404, showing name and address of recipient, dates of application and certificate of award, and application number. Arr. alph. by names of recipients.
- ii. Index to Inactive Cases Aged Assistance, entry 405, showing name and address of recipient, dates of application, certificates of award or rejection and certificate of withdrawal, reasons for rejection or withdrawal, and application number. Arr. alph. by names of recipients.
- iii. Index to [Miscellaneous Reports], entry 417vii, showing name, age and address of child, names of parents and investigating official, date and nature of investigation, and action taken. Arr. alph. by names of children.
- iv. Index to Cases, entry 411i and ii, 1937-, showing name and birthdate of child, date when child reaches age 16 and aid will be terminated, and application number. Arr. chron. by dates aid will be terminated.

Typed. 5 x 14 x 26½. Rm. 303, pub. welf. off.

401. [REGISTER OF APPLICATIONS], 1936-. 1 vol.

Register of all applications for public assistance, including:

- i. Old-age assistance, showing application number, dates of filing and action, name, age, sex, and address of applicant, name of visitor assigned, whether new or reopened case, and action taken. Arr. num. by application nos. No index.
- ii. Dependent children's aid in custody of relatives, showing application number, dates of filing and action, name and address of applicant, name of visitor assigned, whether new or reopened case, and action taken. Arr. num. by application nos. For index, see entry 399i.
- iii. Dependent children's aid in custody of individuals or foster homes, showing same information as in paragraph ii. Arr. num. by application nos. For index, see entry 399i.
- iv. Dependent children's aid who are public wards, 1937-, showing same information as in paragraph ii. Arr. num. by application nos. For index, see entry 399i.

- v. Service to crippled children, 1938--, showing application number, dates of filing and action, name of applicant, name, age and sex of child, name of visitor assigned, and action taken. Arr. num. by application nos. For index, see entry 399iv.
- vi. Aid to blind, showing application number, dates of filing, action and recommendation of county board, name, age and sex of applicant, name of visitor assigned, recommendation of county board, and action taken by state department of public welfare. Arr. num. by application nos. For index, see entry 399iii.
- vii. Foster home applications, showing application number, dates of filing and action, name of applicant, number, age and sex of children applied for, name of visitor assigned, and action taken. Arr. num. by application nos. For index, see entry 399ii.

Typed. 200 pp. 9 x 15 x 2. Rm. 304, pub. welf. off.

402. OLD-AGE PENSIONS, 1933-Apr. 1936. 2 f. b.

Applications for old-age pensions, showing dates of application and filing, name, age, sex, date and place of birth, marital and citizenship status of applicant, amount and source of income, amount, valuation and description of property and case history of applicant, names, ages and financial status of children and action of board of commissioners. Arr. chron. by dates of applications. No index. Hdw. 11 x 5 x 14. Aud. off.

403. OLD AGE PENSION RECORD, 1933-Mar. 3, 1936. 2 vols. (1, 2).

Copies of applications for old-age pensions under acts of 1933, showing dates of application and filing, name, age, sex, date and place of birth, marital and citizenship status, amount and source of income, valuation and description of property, and case history of applicant, names, ages and financial status of children, and action by board of commissioners. Arr. alph. by names of applicants. No index. Typed. 300 pp. 19 x 13 x 3. Rm. 304, pub. welf. off.

404. ACTIVE CASES AGED ASSISTANCE, 1936-. 4 f. d.

Original documents in active cases of old-age assistance, including applications, investigators' reports and certificates of award, showing dates of application and award, name, age, address and family history of applicant, application number, and amount of award. Arr. num. by application nos. For index, see entry 400i. Typed. 12 x 14 x 26½. Rm. 303, pub. welf. off.

405. INACTIVE CASES AGED ASSISTANCE, 1936-. 2 f. d.

Original documents in inactive cases of old-age assistance, rejected, withdrawn and deceased, including applications, investigator's reports, certificates of award and withdrawal and notices of rejections, showing dates of application, award or rejection and withdrawal, name, age, address and family history of applicant, application number, amount of award, and reason for rejection or withdrawal. Arr. num. by application nos. For index, see entry 400ii. Typed. 12 x 14 x 26½. Rm. 303, pub. welf. off.

406. [RECORD OF ASSISTANCE GIVEN AGED PERSONS, ACTIVE CASES], 1936-. 2 vols.

Individual record of assistance given aged persons, showing dates of certificate of award and warrant, name and address of recipient, application, certificate of award and warrant numbers, amount of warrant, and total amount of assistance given. Arr. num. by application nos. No index. Typed. 500 pp. 9 x 15 x 2. Rm. 304, pub. welf. off.

407. [RECORD OF ASSISTANCE GIVEN AGED PERSONS, INACTIVE CASES], 1933-. 1 vol.

Individual record of assistance given aged persons, including:

- i. Record of payments to aged persons receiving pensions under acts of 1933, showing dates of allowance by county commissioners, award and withdrawal, name and address of person receiving pension, application and warrant numbers, and total amount of payments.
- ii. Record of payments made to recipients of old-age assistance under acts of 1936 and whose award has been revoked by county board of welfare or withdrawn on account of death of recipient, showing dates of certificate of award, warrant and withdrawal, name and address of recipient, reason for withdrawal, amount of warrant and total amount of assistance given, record of assignments and distribution of proceeds, date of death and record of funeral expenses, record of assistance recovery, and application, certificate of award and warrant numbers.

Arr. num. by application nos. No index. Hdw. 500 pp. 9 x 15 x 2. Rm. 304, pub. welf. off.

408. [STATISTICAL REPORTS, OLD-AGE ASSISTANCE], 1936-. 1 vol. Copies of monthly statistical reports on old-age assistance to state department of public welfare, including:

- i. List of applications pending from previous month, showing date of report, name, age and sex of applicant, application number, whether new or reopened case, action taken, and page reference to Register of Applications, entry 401.
- ii. List of applications received this month, showing same information as in paragraph i.
- iii. Summary of applications and open case load, showing date of report, number of applications pending from previous month, received this month, total, number disposed of during month, manner of disposal and number pending at end of month, number of open case leads continued from previous month, added during month, closed during month and number continued to next month, number of individuals aided, number of individuals from whom assistance was withdrawn during month and number at end of month, number of burials during month, and total amount of payments for month.

Arr. chron. by dates of reports. No index. Typed. 200 pp.
9 x 14 x 2. Rm. 303, pub. welf. off.

DEPENDENT CHILDREN AND BLIND ASSISTANCE

409. ACTIVE CASES, 1936-. 1 f. d.

Original documents in welfare cases, including:

- i. Active cases dependent children in custody of relative, including applications, investigator's reports and certificates of awards, showing dates of application, investigator's report and certificate of award, name and address of applicant, name, age and sex of child or children, family history, data from responsible relatives, application number, recommendation of county director, and amount of award.
- ii. Active cases for aid to blind, including applications, notices to report to physician for examination of eyes and investigator's and physician's reports, showing dates of application, notices and action of county and state department of public welfare, name, age, sex, address, personal history and value of real and personal property of applicant, cause of blindness, central and peripheral vision, prognosis and recommendation of physician for treatment, application number, recommendation

of county board of public welfare, and action taken by state department of public welfare.

Arr. num. by application nos. No index. Typed. 12 x 14 x 26½. Rm. 303, pub. welf. off.

410. INACTIVE CASES, 1936-. 1 f. d.

Original documents in welfare cases, including:

- i. Inactive cases of dependent children in custody of relatives, including applications, investigators' reports, notices of rejections and certificates of award and withdrawal, showing dates of application, investigator's report, notice of rejection and certificates of award and withdrawal, name and address of applicant, name, age and sex of child or children, family history, data from responsible relatives, application number, recommendation of county director, amount of award, and reasons for rejection or withdrawal.
- ii. Inactive cases of aid to blind, including applications, notices to report to physician for examination of eyes, physician's report, notices of rejections and withdrawals, showing dates of application, notice and actions of county and state department of public welfare, name, age, sex, address, personal history and value of real and personal property of applicant, cause of blindness, central and peripheral vision, prognosis and recommendation of physician for treatment, application number, recommendation of county board of public welfare, action taken by state department of public welfare, and reasons for rejection or withdrawal.

Arr. num. by application nos. No index. Typed. 12 x 14 x 26½. Rm. 303, pub. welf. off.

411. CASES, 1936-. 1 f. d.

Original documents in welfare cases, including:

- i. Active cases for aid to dependent children who are public wards, including applications, investigators' reports and certificates of award, 1937-, showing dates of application, investigator's report and certificate, name and address of applicant, name, age and sex of child or children, family history, data from responsible relatives, application number, recommendation of county director, and amount of award. Arr. num. by application nos. For index see entry 400iv.

- ii. Inactive cases for aid to dependent children who are public wards, including applications, investigators' reports, certificates of award or rejection and withdrawal, 1937-, showing dates of application, investigator's report and certificates of award or rejection and withdrawal, name and address of applicant, name, age and sex of child or children, family history, data from responsible relatives, application number, recommendation of county director, amount of award, and reasons for rejection or withdrawal. Arr. num. by application nos. For index see entry 400iv.
- iii. Active and inactive cases for aid to dependent children in foster homes, 1937-, showing same information as in paragraph ii. Arr. num. by application nos. For index, see entry 399ii.
- iv. Active cases for service to crippled children, including applications and investigators' and physicians' reports, 1938-, showing dates of application and investigator's and physician's reports, name, age, sex, medical history and nature of ailment of child, name, address and financial status of parents, application number, and action taken. Arr. num. by application nos. No index.
- v. Inactive cases for service to crippled children, including applications and investigators' and physicians' reports, 1938-, showing dates of application and investigator's and physician's report, name, age, sex, medical history and nature of ailment of child, name, address and financial status of parents, application number, nature of services rendered, cost of service rendered and whether paid by county or parents, and reasons for withdrawal. Arr. num. by application nos. No index.
- vi. Active cases for civilian conservation corps, including applications for enrollment and investigators' and medical examiners' reports and certificates, July 1939-, showing dates of application, investigator's and medical examiner's reports and certificates, name, age, address, color, marital status, physical description, educational acquirements and past employment record of applicant, name and address of parents, history of family and financial status of parents or family of applicant if married, amount of monthly pay and portion

to be sent to parents or applicant's family, and application number. Arr. num. by application nos. For index, see entry 399v.

- vii. Inactive cases for civilian conservation corps, including applications for enrollment, investigators' and medical examiners' reports, certifications, rejections and copies of discharges and withdrawals, showing dates of application, investigators' and medical examiners' reports, discharges and withdrawals, name, age, color, address, marital status, physical description, educational acquirements and past employment record of applicant, name and address of parents, family history and financial history of parents or family of applicant if married, amount of pay and portion to be sent to parents or applicant's family, application number, and reason for rejection, withdrawal or discharge. Arr. num. by application nos. For index, see entry 399v.
- viii. Active and inactive cases for national youth administration aid, including applications, investigators' reports, certifications, rejections and withdrawals, July 1939-, showing dates of application, investigator's report, certification or rejection and withdrawal, name, age, color, sex and address of applicant, name and grade of school attended, name, financial status and income of parents, number of members in family, number in school and employed, name of parents, employer, source and amount of public relief rendered family during past 4 years, recommendation of county director, and amount of monthly aid recommended and allowed. Arr. num. by application nos. For index, see entry 399vi.

Typed. 12 x 14 x 26½. Rm. 303, pub. welf. off.

412. PENDING CASES, CURRENT, 1936-. 1 f. d.

Original documents in welfare cases pending action by county board of public welfare, including:

- i. Pre-parole reports, sponsor and employer agreements and county directors reports to state department of public welfare, division of corrections on parole cases, showing date of report, names of parolee, sponsor and employer, employer's address and moral and financial status, social adjustment and moral

- status of parolee, and recommendations of county director. Arr. alph. by names of parolees.
- ii. Applications and investigators' and physicians' reports on service to crippled children, 1937-, showing dates of application, investigator's and physician's reports, name, age, sex, medical history and nature of ailment of child, and name, address and financial status of parents. Arr. alph. by names of children.
 - iii. Applications and investigators' reports for old-age assistance, showing dates of application and investigator's reports, name, age, sex, address and family history of applicant, and application number. Arr. num. by application nos.
 - iv. Applications, notices to report to physician for examination of eyes and physicians' reports for aid to blind, showing dates of application, notice to report to physician for examination of eyes and physician's report, name, age, sex and address, personal history and value of real and personal property of applicant, cause of blindness, central and peripheral vision, prognosis and recommendation of physician for treatment, and application number. Arr. num. by application nos.
 - v. Applications and investigators' reports for aid to dependent children, showing dates of application and investigators' reports, names of applicant and child or children, address of applicant and age and sex of child or children, family history, data from responsible relatives, and application number. Arr. num. by application nos.
 - vi. Application for enrollment, investigators' and medical examiners' reports of civil conservation corps enrollment, July 1939, showing dates of application, investigator's and medical examiner's reports, name, eye color, physical description, educational acquirements and past employment record of applicant, name, address, family history and financial status of parents, medical examiner's report on physical condition of applicant, and application number. Arr. num. by application nos.
 - vii. Application for national youth administration aid and investigator's report, July 1939-, showing dates of application and investigator's report, name,

age, birth date and race of applicant, location and grade of school attended, name, address, amount of past year's income of parents or guardian, name and address of employer of parents or guardian, number of members in family, employed and in school, source and dates of public relief to family during past 4 years, and application number. Arr. num. by application nos.

No index. Typed. 12 x 14 x 26½. Rm. 303, pub. welf. off.

413. [RECORD OF ASSISTANCE TO DEPENDENT CHILDREN], 1936-. 1 vol.

Record of assistance given children, including:

- i. Individual record of payments made for assistance to dependent children who are public wards in custody of institutions, 1937-, showing dates of certificate of award and warrant, names and addresses of institution and payee, names of children, certificate of award and warrant numbers, amount of warrant, and total amount of assistance given.
- ii. Individual record of payments made for assistance to dependent children in custody of individuals, 1937-, showing dates of certificate of award and warrant, name and address of payee, names of children, certificate of award and warrant numbers, amount of warrant, and total amount of assistance given.
- iii. Individual record of payments on active cases of assistance to dependent children in custody of relatives, showing same information as in paragraph ii.
- iv. Individual record of payments made on inactive cases of assistance to dependent children in custody of relatives, showing same information as in paragraph ii.
- v. Individual record of payments made for services to crippled children, 1938-, showing names and addresses of child, parent or guardian and hospital, application number, dates of admission to and discharge from hospital, date, number and amount of warrant, and name of payee.

Arr. num. by application nos. Indexed alph. by names of payees. Typed. 150 pp. 9 x 15 x 1½. Rm. 304, pub. welf. off.

414. [STATISTICAL REPORTS, DEPENDENT CHILDREN], 1936-. 1 vol. Copies of monthly statistical reports to state department of public welfare on aid to dependent children, including:

- i. List of applications pending from previous month, showing date of report, application number, name of applicant, number of children in case, whether new or reopened case, action taken, and page reference to Register of Applications, entry 401.
- ii. List of applications received this month, showing same information as in paragraph i.
- iii. Summary of applications and open case load, showing date of report, number of applications pending from previous month, received this month, total, disposed of during month, manner of disposal, and pending at end of month, number of open case loads continued from previous month, added during month, closed during month, and number continued to next month, and amount of payments for month.

Arr. chron. by dates of reports. No index. Typed. 200 pp. 9 x 14 x 2. Rm. 303, pub. welf. off.

FINANCIAL RECORDS

415. [LEDGER], 1936-. 1 vol.

Ledger containing various records of the county department of public welfare, including:

- i. Record of receipts and disbursements of public welfare funds, 1938-, showing date, amount and source of receipt, quietus number, name of account, number and amount of warrant, and name and number of account of disbursement. Arr. num. by account nos. No index. Hdw. and typed.
- ii. Record of appropriations and disbursements of public welfare funds, 1938-, showing date of disbursement, name and number of account, amounts of annual appropriation, monthly allotment, claim and warrant, total disbursements for month and years to date, appropriation balance, and appropriation, claim and warrant numbers. Arr. num. by account nos. No index. Typed.
- iii. Register of assignments of life insurance policies and other assets by recipients of old-age assistance, showing date of assignment, name of recipient, register and application numbers, name and address of insurance company, and value and description of assets assigned. Arr. num. by register nos. No index. Typed.

- iv. Register of claims filed against estates of deceased recipients of public assistance, showing dates of filing and settlement, names of recipient and trial court, amounts of claim and settlement, register, application and docket numbers, and disposition of settlement proceeds. Arr. num. by register nos. No index. Typed.

150 pp. 12 x 15 x 1½. Rm. 304, pub. welf. off.

416. ALLOWANCE SCHEDULES, 1936-. 2 vols.

Allowance schedules for assistance, including:

- i. Allowance schedules for old-age assistance, showing date of schedule, name and address of recipient, amount eligible for federal aid, total amount eligible, amount of allowance, and application and warrant numbers.
- ii. Allowance schedules for dependent children who are public wards in custody of institutions, Nov. 1938-, showing date of schedule, names of children, institution and payee, number of children, amount eligible for federal aid, total amount eligible, amount of allowance, and application and warrant numbers.
- iii. Allowance schedules for dependent children in custody of individuals, showing date of schedule, names of payee and children, number of children, amount eligible for federal aid, total amount eligible, amount of allowance, and application and warrant numbers.
- iv. Allowance schedules for dependent children in custody of relatives, showing same information as in paragraph iii.

Arr. chron. by dates of schedules. No index. Typed. 250 pp. 12 x 18 x 2. Rm. 304, pub. welf. off.

417. [MISCELLANEOUS REPORTS], 1936-. 1 f. d.

Miscellaneous reports and documents pertaining to business of county department of public welfare, including:

- i. Copies of monthly financial reports submitted to state department of public welfare, showing date of report, schedule of receipts and disbursements, appropriation balances of welfare funds, and affidavits of certification. Arr. chron. by dates of reports. No index.
- ii. Copies of claims paid to state treasurer for state's share of old-age assistance recoveries and reports to county auditor of repayments of old-age assist-

- ance to county, showing dates of receipt, claim, warrant and report, names of recipient and payee, amounts paid to recipient, recovered, paid state treasurer and due county, and application, receipt, claim and warrant numbers. Arr. chron. by dates of claims and reports. No index.
- iii. Copies of claims for burial expenses of deceased recipients of public assistance submitted to state department of public welfare for reimbursement of state's share of expenses, showing date of claim, name and address of payee of claim for burial expenses, name of deceased recipient, amount and number of claim for state's share, amount and number of warrant for payment of burial expenses by county, and affidavit of verification and certification by county auditor. Arr. chron. by dates of claims. No index.
- iv. Certified schedules of old-age and dependent children awards and payments to recipients who have moved to and from other counties, submitted by certifying director, 1938-, showing date of schedule, last warrant, dates and amounts of payments, name and address of recipient, names of county and directory, and application, certificates of award and withdrawal numbers. Arr. chron. by dates of schedules. No index.
- v. Copies of monthly schedules of claims paid for service to crippled children, 1937-, showing dates of schedule and warrant, name of child, name and address of payee, nature of claim, amount of warrant, claim and warrant numbers, and total claims paid. Arr. chron. by dates of schedules. No index.
- vi. Certification of claim register to state department of public welfare by county director and county auditor, 1937-, showing date of certification, number of claims reported, and total amount of claims paid. Arr. chron. by dates of certifications of claims. No index.
- vii. Juvenile cases investigated by public health nurse, showing date and nature of investigation, name, age and address of child, names of parents and public health nurse, recommendations of public health nurse, and action taken. Arr. alph. by names of children. For index, see entry 400iii.

Hdw. and typed. 11 x 13 x 29. Rm. 304, pub. welf. off.

418. CLAIM REGISTER, 1936-. 1 vol.

Register of claims filed, approved and warrants issued for administrative expenses and public assistance, showing dates, amounts and numbers of claim and warrant, name of payee, account number and itemized description of expenditure. Arr. chron. by dates of claims. No index. Hdw. and typed. 100 pp. 12 x 15 x 1. Rm. 304, pub. welf. off.

419. [CLAIMS], 1936-. 1 f. d.

Copies of claims filed for administrative salaries and expenses, burials of deceased recipients of public assistance, services to crippled children, examination of eyes of applicants for aid to blind, claims to state department for reimbursement of state's part of burial expenses of deceased recipients of public assistance and claims from state treasurer for state's part of recovery of assistance given to recipients of public assistance, showing date, amount and nature of claim, names and addresses of claimant and payee, amount of warrant, and claim, warrant and appropriation numbers. Arr. chron. by years, thereunder by kind of claims. No index. 11 x 13 x 29. Rm. 304, pub. welf. off.

420. PERSONAL SERVICES, July 1937-. 1 vol.

Copies of claims for personal services of employees of department of public welfare, showing dates of claim and warrant, classification, monthly rate and name of employee, appropriation and warrant numbers, number of days worked, verification of claim by county director, and certification to state department of public welfare. Arr. chron. by dates of claims. No index. Hdw. and typed. 150 pp. 12 x 13 x 1. Rm. 304, pub. welf. off.

421. [RECEIPTS], 1936-. 1 vol.

Copies of receipts issued by county director of public welfare for repayment of public assistance given, showing date, amount and nature of repayment, name of payer, and receipt number. Arr. num. by receipt numbers. No index. Hdw. 200 pp. 17 x 10 x 1. Rm. 304, pub. welf. off.

XXIV. SURVEYOR

LEGAL STATUS

The office of surveyor exists under the mandatory provisions of the Constitution of 1851, and has existed in Shelby County since its organization in 1822. The surveyor is elected

by the voters of the county for a 2-year term, without restriction on re-election.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ The surveyor must be an elector of the county at the time of his election, must have been an inhabitant thereof during the preceding year,⁴ must reside within the county after his election, and must not hold any other lucrative office.⁵ He must post bond in an amount of not less than \$5,000, to be approved by the board of commissioners and filed with the clerk of the circuit court.⁶ The surveyor must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.⁷

The surveyor receives a regular salary of \$1,075 per year.⁸ The law provides that his salary shall be one and one-half times that amount if he is "a qualified licensed engineer."⁹ When he furnishes his own or a hired conveyance, he receives 6 cents for each mile necessarily traveled by him while performing his duties concerning drainage.¹⁰ He is not entitled to retain, as compensation for himself, any fees collected by him.¹¹

For sufficient legal grounds the surveyor may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹² If the surveyor is convicted of a felony

¹ Const. 1851, art. 6, sec. 2. 1 Rev. Stat. 1852; Burns 49-3301; Baldwin 5504. See the authorities cited in footnote 17 herein.

² Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3. *Pursel v. State ex rel. Roney* (1287), 111 Ind. 519, 12 N. E. 1003; *Boyles v. State ex rel. Riggs* (1887), 112 Ind. 147, 13 N. E. 415.

⁴ Const. 1851, art. 6, sec. 4.

⁵ *Ibid.*, art. 2, sec. 9; art. 6, sec. 6. *State ex rel. Bateman v. Hart* (1914), 181 Ind. 592, 105 N. E. 149. *Opinions of the Attorney General of Indiana, 1934*, p. 500, 1935, p. 103.

⁶ Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1913; Burns 40-3302 to 49-3204; Baldwin 5505 to 5507.

⁷ Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

⁸ Acts 1933; Burns 49-1004; Baldwin 7534.

⁹ Acts 1933; Burns 49-1010; Baldwin 7540.

¹⁰ Acts 1933; Burns 27-103; Baldwin 5739.

¹¹ Acts 1933; Burns 49-1005; Baldwin 7535.

¹² Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1837, 1892; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13165, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13032.

the judgment of conviction must declare his office vacant.¹³

Any vacancy in the office of surveyor is filled through appointment by the board of commissioners. The appointee must take oath and post bond as was required of his predecessor, and he holds office for the unexpired term and until his successor is elected and qualified.¹⁴

The board of commissioners may appoint, on the recommendation of the surveyor, such number of deputy surveyors as may be necessary, determine whether they be full-time or part-time employees, and fix the salary of each deputy in an amount not exceeding \$200 per month. Such salaries are paid from the county treasury after an appropriation therefor is made by the county council. The surveyor may require any deputy to give bond. The deputies must take an oath of office, may perform all of the surveyor's official duties, are subject to the same regulations and penalties, and may be removed from office by the board of commissioners. The township trustees are ex officio deputy surveyors (without additional compensation) in their respective townships.¹⁵

Before the adoption of the Constitution of 1851,¹⁶ the county surveyor was a statutory officer. From the organization of Shelby County in 1822 until 1833 he was appointed for an indefinite term by the board doing county business. From 1833 until 1843 he was appointed for a 3-year term by the circuit court. From 1843 until 1851 he was appointed for a 3-year term by the board of commissioners.¹⁷

FUNCTIONS AND RECORDS

The surveyor has charge, under the direction of the board of commissioners, of all surveying and civil engineering of the county. He has charge of the preparation of plans

¹³ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁴ Const. 1851, art. 6, sec. 9. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. *State ex rel. Culbert v. Linkhauer* (1895), 142 Ind. 94, 41 N. E. 325. Interview of August 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹⁵ Acts 1933; Burns 27-102, 36-1103; Baldwin 5738, 8701. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. 1 Rev. Stat. 1852; Burns 49-502, 49-3307; Baldwin 13109, 5513. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-3330; Baldwin, 1937 suppl., 5511-1.

¹⁶ Const. 1851, art. 6, sec. 2.

¹⁷ Acts 1817-18 (general), ch. 30, sec. 1. Acts 1821-22, ch. 31, secs. 1, 2. Rev. Laws 1824, ch. 104, sec. 1. Rev. Laws 1831, ch. 102, sec. 1. Acts 1832-33, ch. 74, secs 4, 5. Rev. Stat. 1838, ch. 103 (1), sec. 1; ch. 103 (2), secs. 4, 5. Rev. Stat. 1843, ch. 4, sec. 48; ch. 10, sec. 1.

and specifications for the construction of all roads, bridges, ditches, drains, and levees; and he supervises such construction. He also has charge of the maintenance of all ditches and drains.¹⁸ If he is not a licensed engineer or is disqualified from performing his duties by reason of ownership of lands or kinship to any person whose lands are affected, the court appoints a disinterested licensed engineer to act in the matter.¹⁹

For private parties the surveyor takes acknowledgments of mortgages and deeds for the conveyance of real estate,²⁰ and, upon request, makes surveys to establish lines and corners of lands.²¹ Surveys made by the surveyor are prima facie evidence in favor of corners established and lines run, but an appeal to the circuit court may result in a re-survey by some other competent person.²² The surveyor charges for his services the fees provided by statutory schedule and pays the same over to the county treasurer.²³

Since 1923 it has been the duty of the county surveyor to supervise the maintenance of county highways, bridges, and culverts, unless the board of commissioners appoints another person to serve as county highway supervisor.²⁴ Shelby County has a county highway supervisor other than the surveyor.²⁵

The surveyor is required to attend all sessions of the annual road school conducted by Purdue University. His expenses for such attendance are paid from the general fund of the county.²⁶

On application of the surveyor it is the duty of the

¹⁸ Acts 1933; Burns 27-101, 27-103, 27-104, 27-107 to 27-109, 27-111 to 27-116; Baldwin 5737, 5739, 5740, 5743 to 5745, 5747 to 5752. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

Work done by employees of Civilian Conservation Corps or Work Projects Administration under supervision of the county surveyor. Acts 1939; Burns, 1939 suppl., 27-233; Baldwin, 1939 suppl., 5794-9.

¹⁹ Acts 1933; Burns 27-102; Baldwin 5738.

²⁰ 1 Rev. Stat. 1852, Acts 1857; Burns 49-3317; Baldwin 5519.

²¹ Rev. Laws 1831, ch. 102, sec. 6. 1 Rev. Stat. 1852, Acts 1875; Burns 49-3311, 49-3312; Baldwin 5509, 5510.

²² 1 Rev. Stat. 1852; Burns 49-3313; Baldwin 5515. Acts 1901; Burns 49-3314; Baldwin 5516.

²³ Acts 1933; Burns 49-1005; Baldwin 7535. Acts 1875 (Spec. Sess.); Burns 49-3318; Baldwin 5521.

²⁴ Acts 1933; Burns 36-1101, 36-1102, 36-1110; Baldwin 8699, 8700, 8708.

²⁵ See the essay entitled "County Highway Supervisor."

²⁶ Acts 1925; Burns 49-3323; Baldwin 5520.

board of commissioners to provide for the location and establishment of a true and permanent meridian line at or near the county seat and upon public lands belonging to the county. After the completion and location of such established meridian line, the surveyor must file with the recorder a complete description of the marked meridian line and thereafter check his instruments against the line as often as necessary.²⁷

The deputies return to the surveyor all field notes taken by them.²⁸ The surveyor is required to preserve a copy of the original field notes of the surveys of the townships in his county,²⁹ and keep a record of all surveys made by him.³⁰

SURVEYS

422. GENERAL FIELD NOTES, 1846-. 22 vols.

Original notes made at time of making surveys, showing date of survey, names of surveyor and survey, location and description of land, and notes taken. Arr. chron. by dates of surveys. No index. Hdw. 75 pp. 7 x 5 x 1. Surv. off.

423. PLAT BOOK, 1846-. 12 vols.

Plat drawings of surveys, showing date of survey, names of surveyor and survey, location and description of land, and details of survey. Also contains: Surveyor's Record, 1901-, entry 424. Arr. by twp. and range nos., thereunder chron. by dates of surveys. No index. Hdw. 250 pp. 8 x 10 x 1½. Surv. off.

424. SURVEYOR'S RECORD, 1846-1900. 1 vol. 1901- in Plat Book, entry 423.

Record of all surveys, showing date of survey, name of surveyor, location and description of land, township and range numbers, nature of soil, kind of timber, and location of creeks, brooks and corner markings. Arr. by township and range nos. Hdw. 480 pp. 18 x 12 x 3. Surv. drafting rm.

PUBLIC IMPROVEMENTS

(See also entries 19-21, 256-258, 314-317, 431-435)

²⁷ Acts 1895; Burns 49-3327, 49-3328; Baldwin 10349; 10850.

²⁸ 1 Rev. Stat. 1852; Burns 49-3307; Baldwin 5513.

²⁹ Rev. Laws 1831, ch. 102, sec. 5. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin

5508.

³⁰ 1 Rev. Stat. 1852, Acts 1875; Burns 49-3311; Baldwin 5509.

DRAINAGE

425. DRAINAGE RECORD, 1850-. 3 vols. (1, 2, one vol. not labeled).

Record of allotments for cleaning ditches, showing date of allotment, names of property owner and ditch, location and description of land benefitted, number of acres, amount of assessment, allotment specifications, and description and course of ditch. Arr. by names of ditches, thereunder alph. by names of property owners. For index, see entry 426. Hdw. 350 pp. 18 x 12 x 2. Surv. drafting rm.

426. [DRAINAGE INDEX], 1850-. 2 f. b.

Card index to Drainage Record, entry 425, showing names of ditch and property owners, and volume and page reference to recording. 1 f. b. arr. alph. by names of ditches; 1 f. b. arr. alph. by names of property owners. No index. Hdw. 5 x 8 x 24. Surv. off.

427. [ALLOTMENT NOTICES], Mar. 27, 1927-. 1 vol.

Stubs of notices to property owners to clean ditches, showing date and number of notice, names of property owner and ditch, and date for completion. Arr. chron. by dates of notices. No index. Hdw. 75 pp. 3 x 10 x 1/2. Surv. off.

428. SURVEYOR'S RECORD [Objections and Appeals], Nov. 11, 1891-May 30, 1912. 1 vol.

Record of proceedings on objections and appeals on ditch allotments, showing date of meeting, names of ditch and objectors, nature of proceedings, and action taken. Arr. chron. by dates of meetings. Indexed alph. by names of ditches. Hdw. 350 pp. 18 x 12 x 3. Surv. off.

ROADS AND BRIDGES

429. ROAD PROFILES, 1913-. 7 f. d.

Blueprints, plans and profiles of roads constructed and repaired, showing date of filing, names of road and petitioners, and detailed drawing of road. Arr. by names of twps. No index. Blueprint and black and white. 4 x 24 x 24. 6 f. d., 1913-29, bsmt. vt., B-12; 1 f. d. 1930-, surv. drafting rm.

430. [BRIDGES], 1924-. 2 f. d., 1 cabinet.

Blueprints, plans, profiles and specifications for construction and maintenance of bridges, showing date of filing, name of bridge, and details of plans and specifications. Arr. chron. by dates of filing. No index. Typed, blueprint and black and white. F. d., 4 x 24 x 24; cabinet, 36 x 24 x 18. 2 f. d., 1924-30, bsmt. vt., B-12; 1 cabinet, 1931-, surv. off.

XXV. COUNTY HIGHWAY SUPERVISOR

LEGAL STATUS

The office of county highway supervisor exists under the provisions of an act of 1933. The board of commissioners may appoint the county surveyor or some other person to serve as highway supervisor, subject to removal at any time by the board. If no such appointment is made, the surveyor must perform the duties of this office. The exact legal status of the officer determines which law shall control his compensation. A person other than the surveyor now holds this office in Shelby County. The law provides that he shall receive a regular salary in an amount fixed by the board of commissioners, equivalent to not less than \$2 nor more than \$3 per year for each mile of highway under his supervision (to be determined at the January session each year).¹ The highway supervisor must be an elector of the county at the time of his appointment, must have been an inhabitant thereof during the preceding year,² must reside within the county after his appointment, and must not hold any other "lucrative office."³ He must take an oath that he will support the state and federal constitutions and will faithfully perform the duties of his office.⁴

The board of commissioners authorizes the employment of teams, trucks, and men necessary to assist in the repair work of roads (under the supervision of the county highway supervisor), and determines the rate of wages and hire therefor.⁵

Before 1879 the board doing county business had general supervision of the construction and repair of county roads, with the aid of district road supervisors (appointed by the board), the township trustees, and township supervisors of roads.⁶ From 1879 to 1913 the board of commissioners was

¹ Acts 1933; Burns 36-1101, 36-1110, 49-1010; Baldwin 8699, 8703, 7540. *Opinions of the Attorney General of Indiana*, 1935, p. 205.

² Const. 1851, art. 6, sec. 4.

³ *Ibid.*, art. 2, sec. 9; art. 6, sec. 6. State *ex rel.* Bateman v. Hart (1914), 181 Ind. 592, 105 N. E. 149.

⁴ Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3768; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101, 49-102, 49-104; Baldwin 13054, 13055, 13057.

⁵ Acts 1933; Burns 36-1107; Baldwin 8705.

⁶ Acts 1816 (general), ch. 8. Acts 1817-18 (general), ch. 43. Acts 1818-19 (general), ch. 11. Rev. Laws 1824, ch. 87. Rev. Laws 1831, ch. 20, sec. 22; ch. 82. Rev. Stat. 1838, ch. 91. Rev. Stat. 1843, ch. 4, secs. 26, 160; ch. 16. 1 Rev. Stat. 1852, ch. 48.

an ex officio board of turnpike directors for that purpose. The board divided the county into three districts, and each director had personal supervision of one of such districts.⁷ In 1913 this board was abolished and the office of county highway superintendent was created. The superintendent was appointed biennially by the board of commissioners and placed in charge of the maintenance of all roads, bridges, and culverts in the county.⁸ In 1933 this office was abolished⁹ and the office of county highway supervisor was created.¹⁰

FUNCTIONS AND RECORDS

The county highway supervisor has general charge of the maintenance of county roads, bridges, and culverts;¹¹ divides the county into road districts; maps all existing roads, giving each road a separate name or number and setting forth the length and character of each road and the kind and volume of traffic;¹² fixes maximum limits of loads for roads, bridges, and culverts;¹³ establishes standards for maintenance according to topography, nature, volume of traffic, and the availability of repair materials; annually makes a budget estimate of the cost of maintenance during the next calendar year;¹⁴ and attends meetings of the board of commissioners¹⁵ and sessions of the annual road school at Purdue University.¹⁶

The records of the county highway supervisor are maps of the highway system made by him,¹⁷ reports of work in progress,¹⁸ monthly reports to the board of commissioners of all work done, and an annual report of his work, with a complete statement of all expenditures under his supervision.¹⁹

⁷ Acts 1879 (Spec. Sess.), ch. 115, sec. 1.

⁸ Acts 1913, ch. 330, secs. 1, 2. State *ex rel.* Bateman v. Hart (1914), 181 Ind. 592, 105 N. E. 149.

⁹ Acts 1933; Burns 36-1113.

¹⁰ Acts 1933; Burns 36-1110; Baldwin 8708.

¹¹ Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708.

¹² Acts 1933; Burns 36-1109; Baldwin 8707.

¹³ Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708.

¹⁴ Acts 1933; Burns 36-1103; Baldwin 8701.

¹⁵ Acts 1933; Burns 36-1104; Baldwin 8702.

¹⁶ Acts 1933; Burns 36-1110; Baldwin 8708.

¹⁷ Acts 1933; Burns 36-1109; Baldwin 8707.

¹⁸ Acts 1933; Burns 36-1106; Baldwin 8704.

¹⁹ Acts 1933; Burns 36-1104; Baldwin 8702.

PUBLIC IMPROVEMENTS

(See also entries 19-21, 256-258, 314-317, 425-430)

431. HIGHWAY SUPERVISOR'S LEDGER, 1935-. 1 vol.

Record of appropriations and disbursement for construction and maintenance of highways, showing dates and amounts of appropriation and disbursements, name of claimant, amount and nature of claim, account number, and balance or overdraft. Arr. num. by number of accounts, thereunder chron. by dates of disbursements. Hdw. and typed. 600 pp. 18 x 12 x 3. Hwy. sup. off.

432. [CLAIM RECORD], 1936-. 1 vol.

Record of claims filed for equipment, supplies and materials, showing date, number and amount of claim, name and address of claimant, and description of equipment and materials. Arr. alph. by names of claimants. No index. Hdw. 200 pp. 16 x 8 x 1. Hwy. sup. off.

433. UNPAID CLAIMS, 1935-. 1 f. d.

Copies of requisitions and purchase and delivery orders for materials and supplies, showing dates of requisition and order, requisition and order numbers, name of consignor, description and quantity required, unit price, and date of delivery. Arr. chron. by dates of requisitions. No index. Hdw. 11 x 14 x 26. Hwy. sup. off.

434. [DAILY TIME REPORT], 1936-. 1 vol.

Record of daily time reports, showing date of report, names of employe and road, kind of equipment used, nature of work, number of miles traveled, amount of gas and oil used, number of hours worked, and rate per hour. Arr. chron. by dates of reports. No index. Hdw. 600 pp. 9 x 15 x 3. Hwy. sup. off.

435. [PAYROLL], 1937-. 1 vol.

Record of monthly payrolls, showing date of payroll, district number, name of employe, number of hours worked, rate per hour, amount earned, and amount drawn from compensation insurance. Arr. chron. by dates of payrolls. No index. Hdw. and typed. 300 pp. 8 x 22 x 2. Hwy. sup. off.

XXVI. COUNTY AGRICULTURAL AGENT

LEGAL STATUS

The office of county agricultural agent exists under the mandatory provisions of an act of 1937, and has existed in

Shelby County since 1917.¹ The county agricultural agent is appointed for a 1-year term by the director of agricultural extension service of Purdue University, with the approval of the county agricultural agent board (a state board). This board prescribes his qualifications and may remove him from office. Any vacancy in office is filled in the manner provided for making the original appointment. The county council is required to appropriate \$1,000 annually for the expenses of his office and the state pays through Purdue University the sum of \$1,800 per year for his salary.²

An act of 1829 provided for the establishment of county agricultural societies but no funds were appropriated. An amendment of this act in 1835 encouraged the county to provide funds for the development of agriculture. These early societies were short lived but were revived by an act of 1852 which provided for the offering of annual premiums by the county for the various phases of agricultural improvement. By 1890 every county in the state had its agricultural society.³

The office of agricultural agent was established in Shelby County in 1917 under authority of an act of 1913, which provided for its establishment on petition of 20 county residents and deposit of \$500, and was thus continued until the act of 1937 made the office mandatory. Before 1937 the agent was appointed annually by Purdue University (except that re-appointments after 1923 could be made for 2-year terms), subject to the approval of the state and county boards of education.⁴

FUNCTIONS AND RECORDS

The agricultural agent, under the supervision of Purdue University, co-operates with farmers' institutes, farmers' clubs, and other rural and civic organizations; conducts practical farm demonstrations, boys' and girls' clubs and contest work, and other movements for the advancement of agricultural

¹ See footnote 4 herein.

² Acts 1939, ch. 47, sec. 2, p. 275. Acts 1913, 1923, 1927, 1937; Burns, 1939 suppl., 28-4911; Baldwin, 1937 suppl., 6457. *Opinions of the Attorney General of Indiana, 1937*, pp. 144, 561. Interview of December 1, 1939 with Floyd I. McMurray, state superintendent of public instruction.

³ Acts 1828-29, ch. 4, secs. 1, 7. Acts 1834-35 (general), ch. 70, sec. 1. 1 Rev. Stat. 1852, ch. 2. William Carroll Latta, *Outline History of Indiana Agriculture* (Lafayette, Indiana, 1938), 271-274.

⁴ Acts 1913, ch. 24, sec. 12. *Sixth Annual Report, Purdue University, Department of Agricultural Extension, 1917*, p. 5.

and country life; gives advice to farmers on practical farm problems; and aids the superintendents of schools and the teachers of the county in giving practical education in agriculture and domestic science.⁵

Shelby County has a home demonstration agent to develop extension programs for the improvement and advancement of agriculture, home economics, and rural life, in harmony with federal and state laws and in close co-operation with the work of the county agricultural agent. The agricultural extension division of Purdue University selects the home demonstration agent and supervises her work. She must be unmarried, a graduate of a recognized school of home economics, and have some practical experience in teaching. Her salary is paid by Purdue University from federal land grant college funds. Her office expenses are paid from funds appropriated by the county council. Her term of office is indefinite. She directs all home economic extension work, both adult and junior, including girls' 4-H clubs, and co-operates with the county schools.⁶

The records of the agricultural agent and home demonstration agent consist of reports to Purdue University concerning their activities, compiled under the direction of the university.⁷

436. ANNUAL REPORTS, 1917-. 1 f. d.

Copies of agricultural agent's annual reports to department of agriculture, Purdue University, including:

- i. Annual narrative reports on agriculture extension service, including: Activities on agriculture engineering, farm management, farm equipment, cultivation of farmland, farm crops, legumes, forestry, weed control, poultry and stock raising, horticulture, entomology, and marketing of crops, showing date of report, name of project, number of farm and other visits, and memoranda of achievements.
- ii. Annual narrative reports on home demonstration agent's activities, 1936-, including: Home management, sanitation and furnishings, parent education,

⁵ Acts 1913, 1923, 1927, 1937; Burns, 1939 suppl., 28-4911; Baldwin, 1937 suppl., 6457.

⁶ U. S. C., title 7, secs. 341 to 343, 344 to 348 (law of 1914). Acts 1931; Burns 28-5627; Baldwin 6475. Interview of December 1, 1939 with Floyd I. McMurray, state superintendent of public instruction.

⁷ Interview of December 1, 1939 with Floyd I. McMurray, state superintendent of public instruction.

child development, community organization and co-operation with other agencies, showing date of report, name of project, number of home and other visits, and memoranda of achievements.

- iii. Annual narrative reports on 4-H club activities 1928-, showing date of report, number of club leaders and members enrolled, nature of annual work programs and contests, names of members participating, grades made, and prize awarded.

Arr. chron. by dates of reports. No index. Typed. 11 x 13 x 25. Agr. agt. off.

437. COUNTY AGENTS' FILE, 1935-. 5 f. d.

Copies of agricultural agents' monthly reports to department of agriculture, Purdue University, including:

- i. Monthly reports on agriculture extension service, showing same information as in entry 436i. Arr. chron. by dates of reports.
- ii. Monthly reports on 4-H club activities, showing same information as in entry 436iii. Arr. chron. by dates of reports.
- iii. Copies of claims filed for office equipment, supplies and traveling expense, showing dates of claim and approval, name of claimant, itemized statement of mileage and expense, and number, nature and amount of claim. Arr. chron. by dates of claims.

No index. Hdw. and typed. 11 x 13 x 25. Agr. agt. off.

438. HOME DEMONSTRATION AGENT, 1936-. 3 f. d.

Copies of home demonstration agent's monthly reports to department of agriculture, Purdue University, including:

- i. Monthly reports of home demonstration agent's activities, showing same information as in entry 436ii. Arr. chron. by dates of reports.
- ii. Copies of claims filed for office equipment, supplies and traveling expense, showing same information as in entry 437iii. Arr. chron. by dates of claims.

No index. Hdw. and typed. 11 x 13 x 25. Agr. agt. off.

XXVII. COMMISSION OF PUBLIC RECORDS

LEGAL STATUS

The commission of public records of Shelby County,

created by an act of 1939, consists of the judge and clerk of the circuit court, the president of the board of commissioners, and the county auditor. The commission elects one of its members as chairman. The clerk of the circuit court is secretary.¹

The members of the commission serve without compensation and receive no reimbursement for any expenses.²

An act of 1877 required the board of commissioners to order copies to be made of any public records in the county when necessary for their preservation.³ An act of 1925 provided that any public official, at his discretion, may turn over to the Indiana State Library, for permanent preservation, any official books, records, documents, original papers, newspaper files, or printed books or materials, not in current use in his office.⁴ An act of 1937 amended that of 1925 by a provision that the director of the state library, at his discretion, may make a copy of any official book, record, document, original paper, newspaper, or printed book or material in any public office, for preservation in the state archives.⁵ An act of 1935 created within the executive department of the state a commission on public records, consisting of the governor, the secretary of state, the state examiner, the director of the state library, and the director of the historical bureau. This act is almost identical with that of 1939 creating a commission of public records in each county, except for the provisions relative to ex officio members of the commission.⁶ These laws reflect the attitude of the general assembly toward the preservation of public records.

FUNCTIONS AND RECORDS

It is the duty of the commission to classify public records on the following basis: Those (a) of neither official nor historical value; (b) of current official value, to be retained in the office to which they belong; (c) of official value, but

¹ Acts 1939; Burns, 1939 suppl., 49-3701; Baldwin, 1939 suppl., 5492-1.

For laws concerning eligibility, oath, and removal of these officers, see the essays on circuit court, board of commissioners, auditor, and clerk of the circuit court.

² Acts 1939; Burns, 1939 suppl., 49-3701; Baldwin, 1939 suppl., 5492-1.

³ Acts 1877; Burns 26-634; Baldwin 5339.

⁴ Acts 1925, Burns 63-830; Baldwin 10287.

⁵ Acts 1925, 1937; Burns, 1939 suppl., 63-830; Baldwin, 1937 suppl., 10287.

⁶ Acts 1935; Burns, 1939 suppl., 63-1901 to 63-1910; Baldwin, 1935 suppl., 15400-1 to 15400-10.

rarely consulted and of no appreciable value to the officer with whom they are filed; (d) of purely historical value.⁷

Records of class (a), occupying space to no purpose in offices and storerooms, must be destroyed or otherwise disposed of 3 years after they were originally filed, unless a law requires that they be saved beyond that period or altogether prohibits their destruction.⁸

Records of classes (c) and (d) must be transferred to the state library 3 years after the date of the filing, unless they are then in frequent use by the officer in charge. In event of such transfer, the records of class (c) will be added to the archives of the library, while those of class (d) will constitute a part of the collections of that institution.⁹

When any public records are ordered destroyed or transferred, the commission must enter an order to that effect on its minutes. The order must be dated and must contain a general description of the public records to be destroyed or transferred.¹⁰

It is unlawful for any public official or person to destroy any public record unless the commission has previously given its approval in writing and entered such approval on the minutes of the commission.¹¹

Within the meaning of the act of 1939, a public record is any written or printed book, paper, document, map, or drawing which is the property of any county, and in or on which any entry has been made or is required by law to be made, or which any officer or employee of the state has received or is required to receive for filing.¹²

⁷ Acts 1939; Burns, 1939 suppl., 49-3702; Baldwin, 1939 suppl., 5492-2.

⁸ Acts 1939; Burns, 1939 suppl., 49-3703, 49-3704; Baldwin, 1939 suppl., 5492-3, 5492-4.

⁹ Acts 1939; Burns, 1939 suppl., 49-3704 to 49-3706; Baldwin, 1939 suppl., 5492-4 to 5492-6.

¹⁰ Acts 1939; Burns, 1939 suppl., 49-3707; Baldwin, 1939 suppl., 5492-7.

¹¹ Acts 1939; Burns, 1939 suppl., 49-3708; Baldwin, 1939 suppl., 5492-8.

¹² Acts 1939; Burns, 1939 suppl., 49-3709; Baldwin, 1939 suppl., 5492-9.

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